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**ANNOTATED ACTS**  
**OF**  
**The Indian Legislature**  
**FOR**  
**1927.**

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**Compiled by**  
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# Acts of the Indian Legislature for 1927.

## ACT NO. I OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor-General on the 18th February, 1927)

### An Act further to amend the Indian Limitation Act, 1908, for certain purposes.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908,\* for certain purposes hereinafter appearing; it is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Limitation (Amendment) Act, 1927.

(2) It shall come into force on the 1st day of January, 1928.

**Notes.**—In Chapter 41 of their Report the Civil Justice Committee made recommendations for a number of amendments in the Indian Limitation Act, 1908, and the Local Governments and High Courts were consulted in the matter. The consensus of opinion is in favour of the following recommendations:—(1) that the proviso to sub-section (1) of section 20 should be amended so as to make the payment of interest also subject to the condition that the fact of payment should appear in the handwriting of the person making the same; (2) that limited owners under the Hindu Law, and the Karta or manager of a joint Hindu family should be enabled to make acknowledgments and payments under sections 19 and 20; (3) that article 132 should be amended so as to make it clear that a suit to recover the value of paddy and such like produce charged on immoveable property comes within this article; (4) that article 166 should be amended so as to make it clear that it applies to a petition by a judgment-debtor under section 47 of the Civil Procedure Code, 1908.—*Vide Statement of Objects and Reasons, published in Part V of the Gazette of India, p. 5, dated the 29th January, 1927.*

**History of the Legislation.**—“A Bill giving effect to these proposals was introduced in the Council of State on the 19th August, 1926, and was passed by that Chamber on the 24th idem. When the Bill came up for consideration before the Legislative Assembly on the 31st August certain objections were raised to its second clause, and Government decided to postpone further consideration till the 1927 Session. The points raised in the debates have now been examined, and a fresh Bill has been drafted. In the present Bill a commencement clause has been inserted, and the wording of the latter part of the proviso to sub-section (1) of section 20 has been brought into conformity with the decisions of High Courts in regard to the expression “the fact of the payment appears in the handwriting of the person making the same.”—*Vide Statement of Objects and Reasons, published in Part V of the Gazette of India, p. 5, dated the 29th January, 1927.*

2. For the proviso to sub-section (1) of section 20 of the Indian Limitation Act,\* 1908 (hereinafter referred to as the said Act), the following shall be substituted, namely:—

Amendment of section 20, Act IX of 1908.

“Provided that, save in the case of a payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.”

\* IX of 1908.

**Notes**—Before this amendment only the part payment of principal required to be entered in the handwriting of the person making the same. From 1st January 1928, both in the case of part payment of principal as well as payment of interest, the fact of payment must appear in the handwriting of the person making the same, otherwise a fresh period of limitation would not be computed from the time when the payment is made. To extend the period of limitation in case of part payment of principal mere signature is not sufficient. 36 Ind. Cas. 359 = 41 B. 166 = 18 Bom. L. R. 973; 62 Ind. Cas. 297 = 17 N. L. R. 40. But in case of joint debts when it is written by one and signed by both such part payment extends the period of limitation. 25 Bom. L. R. 359. But so far as payment of interest is concerned, the period of limitation is extended even when the fact of payment is written by a third party and signed by the party. An illiterate person can affix his mark under the writing. 12 Ind. Cas. 23 = 4 Bur. L. T. 217; see also 62 Ind. Cas. 644 = 2 P. L. T. 355; 28 B. 262; 26 C. 246.

Amendment of section 21,  
Act IX of 1908.

**3.** To section 21 of the said Act the following sub-section shall be added, namely :—

“(3) for the purposes of the said sections—

- (a) an acknowledgment signed, or a payment made, in respect of any liability, by, or by the duly authorised agent of, any widow or other limited owner of property who is governed by the Hindu law, shall be a valid acknowledgment or payment, as the case may be, as against a reversioner succeeding to such liability; and
- (b) where a liability has been incurred by, or on behalf of, a Hindu undivided family as such, an acknowledgment or payment made by, or by the duly authorised agent of, the manager of the family for time being shall be deemed to have been made on behalf of the whole family.”

**Clause (a).**—It was held by Their Lordships of the Privy Council in *Sonilal v. Kanhaiyalal*, 19 Ind. Cas. 291 = 13 M. L. T. 437 = 17 C. W. N. 605 = 11 A. L. J. 389 = (1913) M. W. N. 470 = 17 C. L. J. 488 = 15 Bom. L. R. 489 = 35 A. 227 25 M. L. J. 131 = 40 I. A. 74, that the Hindu reversioners derived their title through the last full owner and were not bound by the acknowledgments made by life-estate-holders; see also 86 Ind. Cas. 353. This clause makes that decision obsolete.

**Clause (b).**—An acknowledgment of a debt made within the period of limitation by the manager of a joint Hindu family is binding on the other members of the family. *Indar Pal v. Mewahpal*, 23 Ind. Cas. 429 = 36 A 264 = 12 A L.J. 374. An acknowledgment or payment by the manager, though not expressly stated to have been made or signed as manager, saves limitation also as against the junior members. *Thankamnal Vayamkor Amma v. Mullatha Menakshi* 53 Ind. Cas. 878 = 37 M. L. J. 369; *Chinnaya Nayndu v. Gurunatham*, 5 M. 169 (F.B.). Payment made by the managing member of a joint Hindu family is payment by an agent duly authorized within the meaning of section 20 of the Limitation Act (XV of 1877) and will bind all the co-parceners. *Sarada v. Durgaram*, 14 C. W. N. 741 = 5 Ind. Cas. 484 = 37 C 461 = 11 C. L. J. 484, see also *Ramcharan v. Goya Prosad*, 30 A. 422 (F.B.); *Blasker Taty v. Vijalal Nathu*, 17 B. 512; *Harprosad Das v. Bakshi Harihar Prosad Singh*, 19 C. W. N. 860; *Chandra Kanta v. Beharilal*, 31 C. L. J. 7; *Hari v. Sourendra*, 41 C. L. J. 535. Madras High Court in *Narayana Ayyar v. Venkataramana Ayyar*, 25 M. 220 (F.B) at p. 234 observed. “But it seems clear that, when a creditor deals, not with the managing member only of a family, but with all the members of the undivided family as co-obligors and on that footing enters into a transaction, thereby avoiding any question as to whether the transaction was really for the benefit of the family, he cannot rely upon an acknowledgment of the liability, made by one of them, as an acknowledgment duly made on behalf of all co-obligors by reason only that the person acknowledging is in fact the managing member of the family consisting of the co-obligors. “See also *Baikanta Gui v. Lalchand Samanta*, 26 Ind. Cas. 511. So an acknowledgment of liability by the manager of a joint Hindu family will not save under special circumstances, bind the other adult co-parceners who are also parties to the original contract. *T. S. Duraiswami v. Krishnier*, 54 Ind. Cas. 318 = 10 L. W. 466 = (1919) M. W. N. 797. It is also not open to a member of a joint Hindu family, not being its manager to make an acknowledgment so as to bind the

other members of the family, except those who claim through the person acknowledging. *Ram Kishan v. Hiardi Ram*, 71 Ind. Cas. 737 = 1923 Lal. 135.

4. (1) In article No 132 in the First Division of the First Schedule to the said Act, for the *Explanation* in the first column the following *Explanation* shall be substituted, namely :—

“ *Explanation* —For the purposes of this article—

- (a) the allowance and fees respectively called *malikana* and *haqq*s, and
- (b) the value of any agricultural or other produce the right to receive which is secured by a charge upon immoveable property,

shall be deemed to be money charged upon immoveable property.”

(2) In article No. 166 in the Third Division of the same Schedule, to the entry in the first column the following shall be added, namely :—

“ including any such application by a judgment-debtor.”

**Clause (1).**—A suit to recover the value of paddy due under mortgage bond by the sale of the immoveable properties mortgaged is one to enforce payment of money charged upon immoveable property, the mortgagee's interest being the money-value of the paddy and not specific paddy. To such a suit Art. 132 of Schedule I of the Limitation Act is applicable. *Jogendra v. Mohanlal*, 58 Ind. Cas. 995 = 23 C. W. 951; *Nilmoney v. Hardham*, 2 Ind. Cas. 111 = 13 C. W. N. C. L. XXXIV; *Sripatalil v. Sarat Chandra*, 46 Ind. Cas. 78 = 22 C. W. N. 790; *Sridhar v. Ramgobinda*, 50 Ind. Cas. 608 = 29 C. L. J. 368, *Indra v. Dijabar*, 23 C. W. N. 949 = 47 C. 125 = 51 Ind. Cas. 849, *Ramchand v. Ishur Chandra*, 61 Ind. Cas. 539 = 32 C. L. J. 278 = 25 C. W. N. 57 = 48 C. 625 (F. B.); *Gnanendra v. Panchikouri*, 64 Ind. Cas. 310, *Joy Narain Gole v. Mangobinda*, 64 Ind. Cas. 210. Where a bond hypothecates property to secure payment of grain with interest also in grain a suit brought upon the bond is never the less a suit to enforce payment of money charged upon immoveable property and is governed by Article 132 of Schedule I to the Limitation Act, even though there be no specific condition in the mortgage-bond for determining the rate at which the grain debt is to be valued, in case it is not delivered as agreed in as much as it is the money value of the grain debt that is really charged upon the mortgaged property. *Shamlal v. Dhanwa*, 65 Ind. Cas. 697 = 18 N. L. R. 111 = 5 N. L. J. 224 = 1922 Nag. 23; *Mohesh Ghosh v. Umesh Ch. Ghosh* 51 Ind. Cas. 241 (Cal.); *contra.*, *Rash Behari v. Kunja Behari*, 37 Ind. Cas. 805 = 24 C. L. J. 348.

**Clause (2).**—Article 166 of Schedule I to the Limitation Act governs all applications, based upon whatever grounds, to have an execution sale set aside, and is not restricted to applications under order XXI rule 90 of the C. P. Code. *Babu Das v. Mir Mohammad*, 61 Ind. Cas 823 = (1921) Pat. 181 = 6 P. L. J. 319 = 3 U. P. L. R. Pat. 78, see also *Satish v. Nishi*, 48 C. 975 = 54 Ind. Cas. 431; *Pasumarti v. Gauti*, 29 Ind. Cas. 314 = 36 M. 1076 = 28 M. L. J. 525; *Ramdhari v. Deonandan*, (1922) Pat. 209 = 4 U. P. L. R. (Pat) 71 = (1922) P. 507, *T. K. Paramasiva v. Pulukaruppa*, 45 M. L. J. 829 = 18 L. W. 780 = 33 M. L. T. (H. C.) 137; *Haripada v. Baroda Prosad*, 51 C. 1014 = 82 Ind. Cas 322 = 1925 Cal. 35, but see *Rajagopala v. Ramanuja*, 47 M. 288 = 19 L. W. 179 = (1924) M. W. N. 182 = 80 Ind. Cas. 92 = 1924 (Mad.) 431 = 46 M. L. J. 104 = (1924) M. W. N. 182.

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\* IX of 1908.



## ACT NO. II OF 1927.

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor-General on the 18th February, 1927)

### An Act further to amend the Indian Registration Act, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Registration Act, 1908\* for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short-title.

1. This Act may be called the Indian Registration (Amendment) Act, 1927.

**Notes.**—In an appeal case from India (Privy Council Appeal No. 49 of 1924. *Dayal Singh v. Inder Singh*) the Judicial Committee of the Privy Council have held that the effect of sub-section (6) (b) of section 55 of the T. P. Act, 1882, is that a purchaser of land who has paid earnest money cannot sue for specific performance of the contract unless the contract has been registered. This ruling is inconsistent with the practice prevailing in India and may nullify the exemption contained in section 17 (2) (v) of the Registration Act. As regards all contracts for sale of land where earnest money is paid the Bill is intended to remove doubts which have been created by the decision of the Privy Council.—*Vide Statement of Objects and Reasons.*

Amendment of section 17,  
Act XVI of 1908.

2. In sub-section (2) of section 17 of the Indian Registration Act, 1908,\* after clause (xii), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—A document purporting or operating to effect a contract for the sale of immoveable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.”

**Notes.**—The question whether a document mentioned in the explanation requires registration or not was raised in *Dayal Singh v. Inder Singh*, 44 C. L. J. 97 (P. C.). *Viscount Dundin* answered the question as follows:—“The sole question in this appeal, which is *ex parte*, is therefore, whether the document in question required to be registered. As the question is an important one, it will be well to trace the history of the legislation which bears on the point. Act XX of 1866, section 17, made compulsorily registrable certain instruments:—

‘17 (2). Instruments (other than an instrument of gift) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards to or in immoveable property.

‘(3) Instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest.’

“And by section 49 declared that no instrument required by section 17 to be registered should be received in evidence in any civil proceeding in any Court unless it had been registered. The result of that enactment may be appreciated by a perusal of the case of *Futteh Chand Sahoo v. Leelumber Singh Dass*, 14 M. I. A. 129, where the Board characterised the case as a very hard one, but found the terms of the Act were imperative. In 1877 (probably in accordance with the feeling as expressed above) in a new Act, section 17 was repeated as before, but with this addition:—

‘Nothing in clauses (b) and (c) of this section applies.....’

‘(b) any document not itself creating, declaring, assigning, limiting, or extinguishing any right, title or interest of the value of one hundred rupees and upwards to

or in immoveable property, but merely creating a right to obtain another document, which will when executed, create, declare, assign, limit or extinguish any such right, title or interest.'

"This change having been made, there came to be raised questions as to various agreements, first as to whether they fell under section 17 (b) and, accordingly, if they did so, whether they could be excused in respect of section 17 (h). Examples of such cases may be found in *Burjorji Cursetji Panthaki v. Mancherji Kuwerji*, 5 B. 143, where it was held that the agreement was not necessarily registrable, and *Ramasami v. Ramasami*, 5 M. 115, where the agreement was held to be compulsorily registrable, and consequently not admissible in evidence. Their Lordships do not think it necessary to review these cases or to decide whether one of them will agree with what was said by Lord Buckmaster in *Rani Hemanta Kumari Debi v. Midnapore Zemindari Company, Ltd.*, 46 I. A. 240 = 31 C. L. J. 298. They will assume without deciding that taking the terms of the Act of 1877 alone (the terms of which were repeated *lotidem verbis*, though not with the same number of the paragraphs, in the Act of 1908, which is the Act, which rules the case) the judgment of the Courts below were right in holding that the present agreement was an agreement to sell and not a sale, and consequently exempted under section 17 (2) (v) which corresponds to section 17 (h) of 1877. But there is another Act to be reckoned with, which unfortunately entirely escaped the notice of the Courts below, as they say nothing about it; that is the Transfer of Property Act, 1882 (Act IV of 1882) passed, it will be observed, after the case of *Panthaki*, 5 B. 143, which was in 1880. By section 55 (b) the buyer is entitled.—

"Unless he has improperly declined to accept delivery of the property, to a charge on the property, as against the seller and all persons claiming under him with notice of the payment, to the extent of the seller's interest in the property, for the amount of any purchase money paid by the buyer in anticipation of the delivery and for interest on such amount, and, when he properly declines to accept the delivery, also for the earnest (if any) and for the costs (if any) awarded to him of a suit to compel specific performance of the contract or to obtain a decree for its rescission.

"Their Lordships are of opinion that the section applied to the agreement in this case, where the buyer had paid earnest money, and so far from refusing to accept delivery, was pressing for specific performance, and that the arrangement did in itself create an interest and therefore did not allow of the application of section 17 (v). It was therefore compulsorily registrable under section 17 and, not having been registered, was inadmissible in evidence under section 49."

But by the addition of the explanation the interpretation given by their Lordships of the Judicial Committee of the Privy Council has been entirely negatived by the Legislature.

## ACT NO. III OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 8th March, 1927).

### An Act to provide for the continuance of the protection of the steel industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well being of the community, that increased import duties should continue to be levied on certain iron and steel articles for the purpose of fostering and developing the steel industry in British India, and that the rates of the duties leviable in the application of that policy should be fixed for a period of seven years from the 1st day of April, 1927; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Steel Industry (Protection) Act, 1927.

(2) It shall come into force on the 1st day of April, 1927.

**Notes.**—An Act to provide for the fostering and development of the steel industry in British India, was passed on the 13th June, 1924. That Act was known as Act XIV of 1924. It appears from preamble of that Act, that that Act was passed in order "to provide for the fostering and development of the steel industry by increasing the import duties leviable on certain iron and steel articles and by enabling bounties to be granted to manufacturers in British India of certain such articles and to determine the duties and bounties which shall be payable in respect of such articles during the first three years of the application of that policy to the said industry." That Act remained in force up to 31st day of March 1927. It was provided by section 6 of that Act, that the Governor-General in Council, should cause to be made an enquiry as to the extent, if any, to which it might be necessary to continue the protection of the steel industry and as to the duties and bounties which would be necessary for the purpose of conferring such protection. The members of the Select Committee are unanimous that the Indian Steel Industry which is basic industry and has every chance of being developed and made self-reliant, will have to be protected. But there was some difference of opinion between the members of the Select Committee as to the method of protection. Mr. N. M. Joshi was in favour of protecting it after nationalising it. And his argument in favour of it is, that the losses which the nation may suffer during the period of depression may be made good from the profits which may be made during a period of prosperity. Messrs. *Jayakar and ors.* in their note of dissent observe "The main scheme of the Bill is to differentiate between steel of British origin and of non-British origin. The scheme has been criticised as a scheme of Imperial preference but we are assured that this was not really Imperial preference but differentiation based upon the differences in the quality of steel imported. Even though we might be prepared to accept the assurance that Imperial preference was not sought to be introduced through this Bill, yet the fact remains that the difference in duty which is sought to be imposed is not based merely on the quality of goods but on the basis of the country of origin. We think it very undesirable to adopt any scheme of protective duties based upon the country of origin of the commodities imported. The acceptance of such a principle in any form is not merely unsound but it may lead to complications in our fiscal policy in future. Though the quarter proportion of the continental steel that is imported into India does not confirm to British Standard specifications, it has not been denied that standard steel is manufactured in the continent also. By imposing a higher duty on all continental steel irrespective of the fact whether it is standard steel or not, the continental manufacture of standard steel is placed at a disadvantage in the Indian market as compared with the position of the British manufacturer. Such a discrimination in our opinion cannot be justified unless India is prepared deliberately to adopt the policy of British preference. Though we are assured that all steel manufactured in the United Kingdom conforms to British standard specification, yet it is not unlikely that the British manufacturer taking advantage of the assured protection given to him in the Indian market for a period of some years may however lower the standard of British steel imported into this country." The principle of the bill is thus stated in the Report of the select Committee: "As a result of our discussions, the great majority of us were satisfied that only two methods were practicable in present circumstances. The first of these is that embodied in the Bill by which duties are imposed on steel of British manufacture sufficient to protect the Indian manufacturer against competition from the United Kingdom and higher duties on steel imported from other countries."

**2. (1) For sub-section (4) of section 3 of the Indian Tariff Act,\* 1894,**

Amendment of section 3, the following sub-sections shall be substituted,  
Act VIII of 1894. namely :—

"(4) If the Governor-General in Council is satisfied, after such inquiry as he thinks necessary, that articles of British manufacture chargeable with duty under Part VII of the Second Schedule are being imported into British India at such a price as is likely to render ineffective the protection intended to be afforded by such duty to similar articles manufactured in India, he may,

by notification in the Gazette of India, increase such duty to such extent as he thinks necessary.

- (5) If the Governor-General in Council is satisfied, after such inquiry as he thinks necessary, that articles not of British manufacture chargeable under Part VII of the Second Schedule with a higher duty than similar articles of British manufacture are being imported into British India from any place outside India at such a price as is likely to render ineffective or excessive the protection intended to be afforded by such duty to similar articles manufactured in India he may, by notification in the Gazette of India, increase or reduce such duty to such extent as he thinks necessary either generally or in respect of such articles when imported from or manufactured in any country or countries specified in the notification :

Provided that the duty leviable on any such article shall in no case be less than the duty leviable on a like article of British manufacture.

- (6) The Governor-General in Council may, by notification in the Gazette of India, prescribe the conditions subject to which articles shall be deemed to be of British manufacture for the purposes of this section and of the Second Schedule."

(2) In the Second Schedule to the same Act there shall be made the amendments specified in the Schedule to this Act.

(3) The amendments made by this section other than those made in Parts I and II of the Second Schedule to the Indian Tariff Act,\* 1894, shall have effect only up to the 31st day of March, 1934.

**Notes.**—The object of this section will be clear from the following extract from the Report of the Select Committee. "(2) At the out set of our proceedings, we considered the six different methods of conferring protection to the steel industry. As a result of our discussions, the great majority of us are satisfied that only two methods were practicable in present circumstances. The first of these is that embodied in the Bill by which duties are imposed on steel of British manufacture sufficient to protect the Indian manufacturer against competition from the United Kingdom and higher duties on steel imported from other countries. The second is a system by which uniform duties would be imposed on steel imported from any source than duties being based on the difference between the fair selling prices for Indian steel and the weighted average prices of imported steel.

"3. In order that the difference between the two methods might be clearly brought out, the Commerce Department of the Government of India supplied us with the amendments which would be necessary in the Bill and its schedule, if it were decided to adopt the weighted average system without increasing or diminishing the degree of protection given. The Department also supplied us subsequently with a second series of amendments embodying a modification of this system by which certain classes of steel would become subject to (a) uniform basis duties, and (b) uniform additional duties, and the Governor-General in Council would be empowered to modify the additional duties (but not the basis duties) whether by way of increase or of reduction. This modification of the weighted average system removes one of the objections to which it is open, viz., that it provides no means by which, without legislation, the amount of protection could be reduced, if a substantial increase in prices had rendered it altogether excessive.

"4. We discussed at length the advantages and disadvantages of both system, i.e. (a) differentiated duties with a lower rate on steel of British manufacture and a higher rate on steel not of British Manufacture, and (b) the weighted average

\* VIII of 1894.

system modified by the division of the duty on each class of steel affected into a basic and an additional duty. A majority of us are of opinion that the first of these alterations, which is the scheme adopted in the Bill, is preferable and should be adopted. In arriving at this conclusion, we have attached great weight to the principle embodied in the preamble to the Bill that the scheme of protection must have due regard to the well-being of the community. We are satisfied that the economic interest of India will be better served by the system of differential rates of duty on British and non-British steel than by a system which subjects all steel to uniform rates of duty based on the weighted average prices of imported steel. A weighted average system of duties must be unstable because a change in the relative level of the prices of British and Continental steel would lead to a change in the proportions in which steel made in India is sold in competition with steel from either source. A more serious objection is that the price both of standard steel and fabricated steel would be raised unnecessarily, owing to the higher duty on British steel. As a result the cost of important public works involving the use of large quantities of steel would be increased, the manufacture of machinery in India would be rendered more difficult and the industrial development of the country would be retarded. It has been urged that the weighted average system, at any rate, diminishes the burden imposed on the users of steel which is not of British Standard. We do not consider that this claim is well-founded. Of the class of steel to which the Bill applies differential rates of duty, the most important is steel bars, and in this case the difference between the duty on Continental bars proposed in the Bill and the duty required under the weighted average system is no more than Rs. 2 a ton. So to that extent, the price of steel bars would be higher under the differential system in Calcutta and in many other area where Indian steel can compete effectively with imported steel. But in areas which are nearer to the other great parts of India than they are to Jamsedpur, and where consequently Indian Steel is at a disadvantage, it is possible for importers to raise the price of Continental steel bars to a point a little below the price at which British steel bars could be imported. Under the weighted average system, this point is higher by Rs. 9 a ton than it is under the differential system. We believe that, if the differential system is adopted, the consumer of non-standard steel in any area in which Indian steel can effectively compete will not in fact pay a higher price than he would under the weighted average system, but a lower price owing to the reduction in the price of British steel." *Report of the Select Committee.*

**Sections (2).—**"We considered a suggestion that the Bill contained no provision for the consequences which might follow a substantial decrease in the price of British steel, and we have amended clause 2 (1) of the Bill in order to provide for this contingency. It is proposed by the amendment to insert in section 3 of the Indian Tariff Act, 1894, a new sub-section empowering the Governor-General in Council to increase, but not to reduce, the duty chargeable on articles of British manufacture, if the changes in prices are such as are likely to render ineffective the protection given to the Indian steel industry."—*Report of the Select Committee.*

—v.

**3. The Governor-General in Council shall, not later than the 31st day of March, 1934, cause to be made, by such persons as he may appoint in this behalf, an inquiry as to the extent, if any, to which it is necessary to continue the protection of the steel industry in British India and as to the manner in which any protection found necessary should be conferred.**

**Notes.**—This section corresponds to section 6 of the Steel Industry Protection Act, (XIV of 1927). Under this section the Governor-General in Council is empowered to order a general enquiry into the condition of the steel industry before the 31st March, 1934.

**4. The Steel Industry (Protection) Act, 1924,\***  
 is hereby repealed.

Repeal of Act XIV of 1924.

**Notes**—This section has been repealed by Act 12 of 1927. But as we are publishing the Act for the first time, we have retained the section.

\* XIV of 1924.

## THE SCHEDULE.

## AMENDMENTS TO BE MADE IN SCHEDULE II OF THE INDIAN TARIFF ACT, 1894.

(See section 2)

1. In Part I after item No. 20 the following item shall be inserted, namely :—

20 A	Zinc, unwrought, including cakes, ingots, tiles (other than boiler tiles), hard or soft slabs and plates, dust, dross and ashes ; and broken zinc "
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2. In Part II—

(a) in the heading, after the words "liable to" the word "non-protective" shall be inserted ; and

(b) after item No. 39 the following heading and item shall be inserted, namely :—

" METALS.

39A	Tin, block	Ton	Rs. 250."
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3. For items Nos. 60, 61 and 62 and the heading thereto the following shall be substituted, namely :—

" METALS—IRON AND STEEL.

- 60 Iron alloys.  
Iron angle, channel and tee not otherwise specified (*see* No. 143).  
Iron bar and rod not otherwise specified (*see* No. 144).  
Iron pig.  
Iron rice bowls.
- 61 Iron or Steel anchors and cables.  
Iron or Steel bolts and nuts, including hook-bolts and nuts for roofing.  
Iron or Steel hoops and strips.  
Iron or Steel nails, rivets and washers, all sorts, not otherwise specified (*see* No. 145).  
Iron or Steel pipes and tubes ; also fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like, excluding pipes, tubes and fittings therefor otherwise specified (*see* No. 146).  
Iron or Steel railway track material not otherwise specified (*see* Nos. 63 and 150), including bearing plates, cast iron sleepers and fastenings therefor, and lever-boxes.  
Iron or Steel tramway track material, not otherwise specified (*see* No. 150), including rails, fish-plates, tie-bars, switches, crossings and the like materials of shapes and sizes specially adapted for tramway tracks.  
Iron or Steel sheets (including cuttings, discs and circles) under  $\frac{1}{2}$  inch thick whether fabricated or not, if coated with metals other than tin or zinc.  
Iron or Steel plates and sheets (including cuttings, discs and circles) not under  $\frac{1}{2}$  inch thick, not otherwise specified (*see* Nos 146, 147, 153 and 154), whether fabricated or not.  
Iron or Steel barbed or stranded fencing-wire and wire-rope.  
Iron or Steel (other than bar or rod) specially designed for the reinforcement of concrete.  
Iron or Steel expanded metal.
- 62 Steel angle and tee if galvanized, tinned or lead-coated.  
Steel (other than bars), alloy, crucible, shear, blister and tub.  
Steel (other than bars) made for springs and cutting tools by any process.  
Steel ingots, blooms and billets, and slabs of a thickness of  $1\frac{1}{2}$  inches or more.  
Steel bar and rod, the following kinds—  
(a) shapes specially designed for the reinforcement of concrete, if the smallest dimension is under  $\frac{1}{2}$  inch ;

- (b) all shapes and sizes, if—  
 (i) of alloy, crucible, shear, blister or tub steel, or  
 (ii) galvanized or coated with other metals, or  
 (iii) planished or polished, including bright steel shafting ;  
 (c) other qualities, if of any of the following shapes and sizes—  
 (i) rounds under  $\frac{1}{2}$  inch diameter.  
 (ii) squares under  $\frac{1}{2}$  inch side.  
 (iii) flats, if under 1 inch wide and not over  $\frac{1}{8}$  inch thick,  
 (iv) flats, not under 8 inches wide and not over  $\frac{1}{2}$  inch thick.  
 (v) ovals, if the dimension of the major axis is not less than twice that of the minor axis.  
 (vi) all other shapes, any size."

4. For item No. 63 and the heading thereto the following shall be substituted namely :—

**"RAILWAY PLANT AND ROLLING-STOCK.**

- 63 Railway materials for permanent-way and rolling-stock, namely, sleepers, other than iron and steel, and fastenings therefor ; bearing plates, fish bolts and nuts, chairs, interlocking apparatus, brake-gear, shunting skids, couplings and springs, signals, turn-tables, weighbridges, carriages, wagons, traversers, rail removers, scooters, trollies, trucks, and component parts thereof ; switches, crossings and the like materials made of alloy steel ; also cranes, water-cranes and water-tank when imported by or under the orders of a railway company :

Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a State in India and also such tramways as the Governor General in Council may, by notification in the Gazette of India, specifically include therein :

Provided also that nothing shall be deemed to be dutiable hereunder which is dutiable under No. 51 or No. 51A."

5. In item No. 87, before the word "tramcars" the words "CONVEYANCES not specified in No. 142, namely," shall be inserted.

6. After Part VI the following Part shall be inserted, namely :—

**PART VII.**

*Articles which are liable to protective duty at special rates.*

aV

No.	Name of Article.	Rate of duty.
	<b>CONVEYANCES.</b>	
142	COAL TUBS, tipping wagons and the like conveyances designed for use on light rail track, if adapted to be worked by manual or animal labour and if made mainly of iron or steel ; and component parts thereof made of iron or steel— (a) if of British manufacture ... (b) if not of British manufacture	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher <i>plus</i> Rs. 15 per ton.

No.	Name of Article.	Rate of duty.
<b>METALS—IRON AND STEEL.</b>		
143	IRON angle, channel and tee— (a) fabricated, all qualities— (i) of British manufacture (ii) not of British manufacture	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, <i>plus</i> Rs. 15 per ton.
	(b) not fabricated, kinds other than galvanized, tinned or lead-coated and other than Crown or superior qualities— (i) of British manufacture ... (ii) not of British manufacture	Rs. 19 per ton. Rs. 30 per ton.
144	IRON, COMMON BAR not galvanized, tinned or lead-coated if not of any shape and dimension specified in clause (a) or clause (c) of No. 62— (i) of British manufacture ... (ii) not of British manufacture ...	Rs. 26 per ton. Rs. 37 per ton.
145	IRON OR STEEL NAILS, wire or French	Rs. 3 per cwt.
146	IRON OR STEEL PIPES and tubes and fittings therefor, if riveted or otherwise built up of plates or sheets— (a) galvanized ... (b) not galvanized— (i) not under $\frac{1}{4}$ inch thick— of British manufacture ... not of British manufacture ... (ii) under $\frac{1}{4}$ inch thick— of British manufacture ... not of British manufacture ...	Rs. 33 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.  Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, <i>plus</i> Rs. 15 per ton.  Rs. 39 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 39 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, <i>plus</i> Rs. 20 per ton.
147	IRON OR STEEL plates or sheets (including cuttings, discs and circles) not under $\frac{1}{4}$ inch thick and not of cast iron— (a) fabricated, all qualities— (i) of British manufacture ... (ii) not of British manufacture ... (b) not fabricated, chequered and ship, tank, bridge and common qualities— (i) of British manufacture ... (ii) not of British manufacture	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, <i>plus</i> Rs. 15 per ton.  Rs. 20 per ton. Rs. 36 per ton.



No.	Name of Article.	Rate of duty.
148	<p>IRON OR STEEL sheets (including cuttings, discs and circles) under <math>\frac{1}{8}</math> inch thick—</p> <p>(a) fabricated—</p> <p>(i) galvanized ... ..</p> <p>(ii) all other sorts not otherwise specified (see No. 61)—</p> <p>of British manufacture ... ..</p> <p>not of British manufacture ... ..</p> <p>(b) not fabricated—</p> <p>(i) galvanized ... ..</p> <p>(ii) all other sorts not otherwise specified (see Nos. 61 and 154)—</p> <p>of British manufacture ... ..</p> <p>not of British manufacture ... ..</p>	<p>Rs. 33 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher.</p> <p>Rs. 39 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher.</p> <p>Rs. 39 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher, <i>plus</i> Rs. 26 per ton.</p> <p>Rs. 30 per ton.</p> <p>Rs. 35 per ton.</p> <p>Rs. 59 per ton.</p>
149	IRON OR STEEL WIRE, other than barbed or stranded fencing wire, wire-rope or wire-netting.	Rs. 60 per ton.
149 A	IRON OR STEEL the original material (but not including machinery, see Nos. 51 and 51A) of any ship or other vessel intended for inland or harbour navigation which has been assembled abroad, taken to pieces and shipped for reassembly in India : Provided that articles dutiable under this item shall not be deemed to be dutiable under any other item.	Rs. 23 per ton or 10 per cent. <i>ad valorem</i> whichever is higher.
150	<p>IRON OR STEEL RAILWAY TRACK MATERIAL—</p> <p>A. Rails (including tramway rails the heads of which are not grooved)—</p> <p>(a) (i) 30 lbs. per yard and over ... ..</p> <p>(ii) fish-plates therefor ... ..</p> <p>(iii) spikes and tie-bars therefor—</p> <p>of British manufacture ... ..</p> <p>not of British manufacture ... ..</p> <p>(b) under 30 lbs. per yard, and fishplates, spikes and tie-bars therefor—</p> <p>if of British manufacture ... ..</p> <p>if not of British manufacture ... ..</p>	<p>Rs. 13 per ton.</p> <p>Rs. 6 per ton or 10 per cent. <i>ad valorem</i>, whichever is higher.</p> <p>Rs. 26 per ton.</p> <p>Rs. 37 per ton.</p> <p>Rs. 26 per ton.</p> <p>Rs. 37 per ton.</p>

No.	Name of Article.	Rate of duty.
	<p>B. Switches and crossings and the like materials not made of alloy steel, including switches and crossings and the like materials for tramway rails the heads of which are not grooved—</p> <p>(i) for rails 30 lbs. per yard and over.</p> <p>(ii) for rails under 30 lbs. per yard— of British manufacture ... not of British manufacture</p>	<p>Rs. 14 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher,</p> <p>Rs. 29 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher.</p> <p>Rs. 29 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher, <i>plus</i> Rs. 12 per ton.</p> <p>Rs. 10 per ton or 10 per cent. <i>ad valorem</i>, whichever is higher.</p>
151	<p>C. Sleepers other than cast iron, and keys and distance pieces and the like for use with such sleepers.</p> <p>STEEL, angle and tee, not otherwise specified (<i>see</i> No. 62) and beam channel, zed, trough and piling—</p> <p>(a) fabricated—</p> <p>(i) of British manufacture ...</p> <p>(ii) not of British manufacture</p>	<p>Rs. 21 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher.</p> <p>Rs. 21 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher, <i>plus</i> Rs. 15 per ton.</p>
	<p>(b) not fabricated—</p> <p>(i) of British manufacture ...</p> <p>(ii) not of British manufacture</p>	<p>Rs. 19 per ton.</p> <p>Rs. 30 per ton.</p>
152	<p>STEEL, bar and rod, not otherwise specified (<i>see</i> No. 62)—</p> <p>(i) of British manufacture ...</p> <p>(ii) not of British manufacture ...</p>	<p>Rs. 26 per ton.</p> <p>Rs. 37 per ton.</p>
153	<p>Steel Structures, fabricated partially or wholly, not otherwise specified, if made mainly or wholly of steel bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, wellcurbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware (<i>see</i> No. 99) or any of the articles specified in Nos. 51, 51A, 64 or 87—</p> <p>(i) of British manufacture ...</p> <p>(ii) not of British manufacture ...</p>	<p>Rs. 21 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher.</p> <p>Rs. 21 per ton or 17 per cent. <i>ad valorem</i>, whichever is higher, <i>plus</i> Rs. 15 per ton.</p>
154	<p>Steel, tinplates and tinned sheets, including tin taggers and cuttings of such plates, sheets or taggers.</p>	<p>Rs. 48 per ton."</p>

**Notes.**—"We have made an amendment in item 62 in Part IV in Schedule II to the Indian Tariff Act, 1894, as amended by the Bill. Under this item as it stood, certain kinds of steel bars which the Tariff Board considered should be subject only to a revenue duty became subject to a protective duty. The effect of the amendment made is to exclude such bars from the scope of the protective duty."—*Report of the Select-Committee.*

## ACT NO. IV OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 26th March, 1927).*

An Act further to amend the Indian Coinage Act, 1906,\* and the Indian Paper Currency Act, 1923,† for certain purposes, and to lay upon the Governor General in Council certain obligations in regard to the purchase of gold and the sale of gold or sterling.

Whereas it is expedient further to amend the Indian Coinage Act, 1906,\* and the Indian Paper Currency Act, 1923,† for certain purposes, and to lay upon the Governor General in Council certain obligations in regard to the purchase of gold and the sale of gold or sterling; It is hereby enacted as follows :—

**Notes.**—The object of the Act is to give effect to those recommendations of the Royal Commission on Indian Currency and Finance which relate to the immediate stabilisation of the Rupee in relation to gold and to the *interim* measures required during the transition period pending the bringing into operation of their proposals for the transfer to a Reserve Bank of India for the control of the note issue and other functions at present performed by the Secretary of State and by the Government of India.—*Statement of Objects and Reasons.*

Short title, extent and commencement.

1. (1) This Act may be called the Currency Act, 1927.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the 1st day of April, 1927.

**British India.**—According to section 3, sub-section 17, "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by her Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India.

Amendment of Act III of 1903.

2. In the Indian Coinage Act, 1906,\*—

(a) for section 11 the following section shall be substituted, namely :—

"11. Gold coins, whether coined at His Majesty's Royal Mint or

Demonetization of sovereign and half-sovereign. at any Mint established in pursuance of a proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall not be legal tender in British India in payment or on account, but such coins shall be received at any Government currency office and, at any time after the 30th day of September, 1927, at any Government Treasury other than a Sub-Treasury, at the bullion value of such coins calculated at the rate of 8475·2 grains troy of fine gold per rupee"; and

(b) the word "and" at the end of clause (d) of sub-section (2) of section 21 and clause (e) of that sub-section shall be omitted.

**Notes.**—The Commission recommend in paragraph 175 of their report that the rupee should be established in relation to gold at a rate corresponding to an exchange rate of 1 s. 6 d. gold for the rupee, that is, at the rate of one rupee for 8·47512 grains of gold. This section and all but the last portion of sub-clause (e) (i) section 3 are designed to give effect to this recommendation and at the same time to remove the legal tender quality of the sovereign and the half sovereign, which are at present legal tender at the rate of 2s. for the rupee, in accordance with the Commission's recommendation in paragraph 66 of their Report that these gold coins must be demonetised in order to enable a real gold bullion standard to be established. In order, however, to enable the small holders of these coins to convert them into legal tender money, it is proposed to provide for the receipt of these coins in any quantities at their bullion value at the rate of 8·47512 grains of gold per rupee.—*Statement of Objects and Reasons.* By enacting this section the hardship created by demonetisation of gold coins is removed to a great extent.

Amendment of Act X of 1923.

### 3. In the Indian Paper Currency Act,\* 1923—

(a) to section 2 after the words "in this behalf" the following shall be added, namely :—

"and

'gold bullion' includes gold coin";

(b) in clause (a) of section 11, the words "or in gold coin which is legal tender under the Indian Coinage Act, 1906," shall be omitted;

(c) in section 13—

(i) the words "for gold coin which is not legal tender under the Indian Coinage Act, 1906, or" shall be omitted; and

(ii) for the figures "11'30016" the figures "8·47512" shall be substituted;

(d) in section 18—

(i) in sub-section (4), the words "sovereigns, half-sovereigns" and the words "coin and" shall be omitted; and

(ii) in clause (a) of sub-section (8), for the figures "11'30016" the figures "8·47512" shall be substituted;

(e) in section 19—

(i) in sub-section (3), the words "sovereigns, half-sovereigns" shall be omitted, and, in the *Explanation*, after the word "sub-section," the following words and figures shall be inserted, namely :—

"gold bullion shall be reckoned at the rate of one rupee for 8·47512 grains troy of fine gold, and"; and

(ii) in sub-section (5), the words "coin or" and the word "coin", where it occurs for the second time, shall be omitted.

**Clause (a).**—By section 2, gold coins are demonetised and reduced to the level of bullion. So there is no difference now between gold coin and gold bullion.

**Clause (b).**—By section 2, gold coins are no more legal tenders, and as such section 11 of the Indian Coinage Act, requires an amendment.

**Clause (c) (i).**—Now no gold coins are legal tenders and as such the words repealed are superfluous.

**Clause (c) (ii).**—Originally sovereigns and half-sovereigns were legal tenders at the rate of 2s. per rupee. According to that scale gold bullion was available at the rate

of 11·30016 grains of gold per rupee. Now by section 2 the value of gold bullion has been fixed at the rate of 8·47512 grains of gold per rupee. Hence the necessity of the amendment.

**Clause (d).**—Vide notes under clause (c) *supra*.

**Clause (e).**—By this clause explanation to sub-section (3) of section 19 of the Indian Paper Currency Act, 1923 has been amplified. That section contained the temporary provisions, so as to provide for the valuation of the gold bullion held in the Paper Currency Reserve on the lines of clause (a) of sub-section 18 which referred to the permanent provisions which had not then come into force. By this amendment the present exchange value of gold has been substituted for the old exchange value given in the Paper Currency Act.

**4. Any person who offers for sale to the Governor General in Council at**

Obligation upon Govern- the office of the Master of the Mint, Bombay, or at  
ment to purchase gold any other place notified in this behalf by the Governor  
bullion tendered for sale. General in Council in the Gazette of India, gold in  
the form of bars containing not less than forty tolas of fine gold shall, subject  
to such conditions as the Governor General in Council may, by notification in  
the Gazette of India, prescribe, be entitled to receive payment for the same at  
the rate of twenty-one rupees, three annas and ten pies per tola of fine gold.

**Notes.**—The commission recommend in paragraph 166 of their Report that, until the Reserve Bank of India takes over the control of the note issue, the Government of India must be under a statutory obligation to buy gold and to sell gold or gold exchange at its option at the gold points of the accepted gold parity of the rupee. During the transitory period, the Government of India would be engaged in building up the gold holding in the Reserve and would not therefore exercise its option to give gold. This section and section 5 were framed to give effect to this recommendation of the commission.—Vide Report of the Select Committee.

**5. (1) The Governor General in Council shall sell, to any person who**

Obligation upon Govern- makes a demand in that behalf at the office of the  
ment to sell gold or Controller of the Currency, Calcutta, or of the Deputy  
sterling. Controller of the Currency, Bombay, and pays the  
purchase price in legal tender currency, gold for delivery at the Bombay Mint  
at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold  
or, at the option of the Controller or the Deputy Controller, as the case may be,  
sterling for immediate delivery in London at an equivalent rate :

Provided that no person shall be entitled to demand an amount of gold or sterling of less value than that of 1·065 tolas of fine gold.

(2) For the purpose of determining the equivalent rate applicable to the sale of sterling under this section, twenty-one rupees, three annas and ten pies shall be deemed to be equivalent to such sum in sterling as is required to purchase one tola of fine gold in London at the rate at which the Bank of England is bound by law to give sterling in exchange for gold, after deduction therefrom of an amount representing the normal cost per tola of transferring gold bullion in bulk from Bombay to London, including interest on its value during transit.

(3) The Governor General in Council shall, from time to time, determine the equivalent rate in accordance with the provisions of sub-section (2), and shall notify the rate so determined in the Gazette of India.

**Notes.**—Vide Notes under section 4 (*supra*).

## ACT NO. V OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 30th March, 1927.)

**An Act to fix the duty on salt manufactured in or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Tariff Act, 1894, the Indian Stamp Act, 1899, and the Indian Paper Currency Act, 1923, and to fix rates of income-tax.**

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898,\* further to amend the Indian Tariff Act, 1894,† the Indian Stamp Act, 1899,‡ and the Indian Paper Currency Act, 1923,§ and to fix rates of income-tax; It is hereby enacted as follows :—

**Notes.**—Sections 2 and 4 of the Indian Finance Act, (XIX of 1926) were to remain in force only up to the 31st day of March, 1927. Section 2 deals with salt duty and section 4 relates to Postal rates. The object of this Act is to continue certain provisions of the Indian Finance Act, 1926, which would otherwise cease to have effect from the 1st April, 1927, to make certain changes in the schedules to the Indian Tariff Act, 1894, and to abolish the stamp duty on cheques and other bills of exchange payable on demand.—*Vide Statement of Objects and Reasons.*

Short title, extent and duration.

**1. (1)** This Act may be called the Indian Finance Act, 1927.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) Sections 2 and 3 shall remain in force only up to the 31st day of March, 1928.

**Notes.**—The Salt duty and Postal rates will remain in force for one year only that is, up to the 31st day of March, 1928.

**2.** The provisions of section 7 of the Indian Salt Act, 1882,|| shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1927, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

**Notes.**—The wording of this section is the same as that of section 2 of Act XIX of 1926, only the figures "1927" have been substituted for the figures "1926." This section provides for the continuation of the rates of salt duty, prescribed by the Indian Finance Act, 1926 for a further period of one year, i.e., till the 31st March, 1928.

\* VI of 1898. † VIII of 1894. ‡ II of 1899. § X of 1923. || XII of 1882.

3. With effect from the 1st day of April, 1927, the schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898,\* as the First Schedule to that Act.

Postal rates.

**Notes.**—This section corresponds to section 4 of the Finance Act, 1926; only the figures "1927" have been substituted for the figures "1926." This section provides for the continuation of the rates of postage prescribed by the Indian Finance Act, 1926, for a further period of one year, i.e., till the 31st March, 1928.

Amendment of Act VIII of 1894.

4. With effect from the 1st day of March, 1927, the following amendments shall be made in the Indian Tariff Act, 1894,† namely :—

(1) In the Second Schedule to that Act there shall be made the amendments specified in Part I of the Second Schedule to this Act.

(2) In the Third Schedule to that Act there shall be made the amendment specified in Part II of the Second Schedule to this Act.

**Notes.**—This section gives effect to the following changes—

(a) The abolition of the import duty on rubber stumps and rubber seeds. This abolition was very strongly urged by the Government of Burma in order to afford every possible encouragement to an adolescent industry in Burma. Moreover the change was not expected to result in any appreciable loss of revenue.

(b) The rate of import duty on unmanufactured tobacco was raised from Re. 1 to Re. 1-8. The reason of the increase is thus given by the framers of the Act :—"The import duty on cigarettes was fixed in 1925 at Rs. 7 per thousand, if the value does not exceed Rs. 10-8 per thousand, and at Rs. 10-8-0 per thousand, if the value exceeds Rs. 10-8-0. These rates of duty for the two classes of cigarettes are equivalent to Rs. 2-12-9 and Rs. 4-3-3 per pound respectively. But the import duty on manufactured tobacco is only Re. 1 per pound. It is proposed that the duty on unmanufactured tobacco should be raised from Re. 1 to Re. 1-8 per pound. This increase is expected to yield an additional revenue of Rs. 18 lakhs, which would cover the loss of revenue which would result from the proposed reduction of import duty on motor cars and tyres and the abolition of the export duty on hides.

(c) For the reduction of the import duty on motor cars, etc., from 30 per cent. to 20 per cent. *ad valorem*, and the reduction of duty on tyres and tubes from 30 per cent. to 15 per cent. *ad valorem* the following reasons are given by Sir Basil P. Blacket for the reduction. "The reduction of the import duty on motor cars and tyres was suggested by the Taxation Enquiry Committee, on the ground that, though the existing scales were justified as productive of revenue, a lower duty would undoubtedly encourage the development of motor transport in India. The reduced scale of duties will also afford Provincial Governments and local authorities an opportunity to levy taxation to be devoted to the improvement of roads. It is anticipated that the loss in customs revenue on the reduced scale of duty will not exceed Rs. 10 lakhs, due allowance being made for increased importation."

(d) For the abolition of the export duty on tea and hides, etc., the reason for the change is thus given : "The abolition of the export duty on tea was suggested by the Fiscal Commission. The Taxation Enquiry Committee came to the conclusion 'that the duty is one which may continue for the present, but it should be removed or reduced, if and when the conditions of the trade indicate that it is having a prejudicial effect. The duty is, however wrong in principle, and it is, therefore proposed to abolish it and to compensate the loss in revenue by altering the present basis of assessment to income tax on the profits of the tea industry. Tea Companies are now assessed on only 25 per cent. of their total profits, the remaining 75 per cent. being regarded as agricultural income, and therefore not liable to income-tax. The portions assigned to the agricultural and manufacturing operations of the trade were based on very imperfect data, and recent inquiries have shown that the proportions should be at least equal. It is therefore, proposed that a rule should be made under section 59 of the Indian Income Tax Act, 1922, to provide that, if owing to the existence of a market for

green tea the manufacturing profit can be separately ascertained, such profit should be assessed, and that otherwise they should be assumed to form 50 per cent. of the entire net profits.

"The export duty on hides was originally imposed in September, 1910, in the interest of the Indian leather industry, but for various reasons the duty has failed in its purpose. The Taxation Enquiry Committee have by a majority recommended early abolition, as in their opinion the duty is wrong in principle a view which was shared by the Fiscal Commission."

Amendment of Act II 1899. **5.** With effect from the 1st day of July, 1927, the following amendments shall be made in the Indian Stamp Act, 1899,\* namely :—

(1) In section 3—

(a) in clause (b), the word "cheque" shall be omitted, and after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted; and

(b) in clause (c), the word "cheque" shall be omitted.

(2) In clause (b) of section 11, the word "cheque" shall be omitted.

(3) In sub-section (1) of section 18, the word "cheque" shall be omitted.

(4) In section 19, after the words "bill of exchange" where they first occur, the words "payable otherwise than on demand" shall be inserted, and the word "cheque," in both places where it occurs, shall be omitted.

(5) In section 47, for the words "promissory note or cheque" the words "or promissory note" shall be substituted, and for the words "note or cheque" wherever they occur thereafter, the words "or note" shall be substituted.

(6) In clause (c) of section 49,—

(a) the word "cheques" shall be omitted, and after the words "bills of exchange" the words "payable otherwise than on demand" shall be inserted;

(b) the words "or cheque," wherever they occur, shall be omitted;

(c) the word "cheque," wherever it occurs elsewhere, shall be omitted; and

(d) for the words "any bill of exchange," where they occur for the first time in sub-clauses (1) and (3), the words "any such bill of exchange" shall be substituted.

(7) In clause (a) of sub-section (1) of section 62, the word "cheque" shall be omitted, and after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted.

(8) In section 67, after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted.

(9) In article No. 13 of Schedule I, the word, figure and brackets "(and (3))" shall be omitted, and the letter, brackets and words "(a) where payable on demand," together with the entry "one anna" in the second column against those words, shall be omitted.

(10) Article No. 21 of Schedule I shall be omitted.

**Notes.**—This section gives effect to the recommendation of the Currency Commission that the stamp duty in cheques should be abolished in order to encourage the habit of banking. It is also proposed to abolish the duty on bills of exchange which are payable on demand. *Statement of Objects and Reasons.*

**6.** In sub-section (7) of section 19 of the Indian Paper Currency Act, Amendment of Act X of 1923,† for the figures "1927" the figures "1928" shall be substituted.



**Notes.**—This section provides for the credit to revenue for a further period of one year, *i. e.*, till the 31st March, 1928, of interest on securities forming part of the Paper Currency Reserve.—*Statement of Objects and Reasons.*

**7. (1) Income-tax** for the year beginning on the 1st day of April, 1927, Income-tax and super- shall be charged at the rates specified in Part I of the Third Schedule. tax.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1927, shall for the purposes of section 55 of the Indian Income-tax Act, 1922,\* be those specified in Part II of the Third Schedule.

(3) For the purposes of the Third Schedule, "total income" means total income as determined, for the purposes of income tax or super tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.\*

**Notes.**—By section 6 of the Indian Finance Act, 1926 (XIX of 1926) the rates of income tax and super-tax specified in Part I of the Second Schedule were fixed for one year *i. e.*, up to 31st March 1927. This section provides for the continuance of the rates of income tax and super-tax prescribed by the Finance Act 1927, for a further period of one year *i. e.*, till the 31st March, 1928.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 3.]

### THE FIRST SCHEDULE.

#### INLAND POSTAGE RATES.

[See section 7.]

##### Letters.

For a weight not exceeding two and a half tolas	...	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	...	One anna.

##### Postcards.

Single	...	Half an anna.
Reply	...	One anna.

##### Books, Pattern and Sample Packets.

For every five tolas or fraction thereof	...	Half an anna.
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##### Registered Newspapers.

For a weight not exceeding eight tolas	...	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas	...	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	...	Half an anna.

##### Parcels.

For a weight not exceeding twenty tolas	...	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	...	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	...	Four annas.

### SCHEDULE II.

[See section 4].

#### PART I.

*Amendments to the Second Schedule to the Indian Tariff Act 1894.*

(1) (a) For Item No. 10-A, the following Item shall be substituted, namely:—

"10 A | Rubber stumps, rubber seeds and raw rubber."

(b) In Item No 76, for the words "excluding oil seeds imported into British India by sea from the territories of any Prince or Chief in India (see No 6) the words "not otherwise specified" shall be substituted.

(2) For Item No. 36 the following Item shall be substituted, namely :—

" 36	Tobacco, unmanufactured ...	Pound		Rs.    A. 1   8
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(3) (a) After Item No. 42 the following heading and item shall be inserted, namely :—

"CARRIAGES AND CARTS.

42-A	Motor Cars, motor cycles, and motor scooters, and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof: provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in No. 87 shall be dutiable at the rate of duty specified for such articles.	<i>Ad valorem</i> ... 20 per cent."
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(b) In Item No. 87, for the figures "127" the figures and letter "42-A" shall be substituted.

(c) In Item No. 115, for the words and figures "No. 53 and 139" the word and figures "No. 53" shall be substituted.

(d) Items Nos 127 and 139 shall be omitted.

PART II.

*Amendment to the Third Schedule to the Indian Tariff Act, 1894.*

Item No 5 and the heading thereto shall be omitted.

SCHEDULE II.

[See section 7.]

PART I.

*Rates of Income-tax.*

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	Rate.
(1) When the total income is less than Rs. 2,000 ...	Nil.
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000 ...	Five pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000 ...	Six pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000 ...	Nine pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000 ...	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000 ...	One anna and three pies in the rupee.

- (7) When the total income is Rs. 40,000 or upwards ... One anna and six pies in the rupee.
- B. In the case of every company and registered firm, whatever its total income ... One anna and six pies in the rupee.

## PART II.

*Rates of Super-tax.*

In respect of the excess over fifty thousand rupees of total income :—	Rate.
(1) in the case of every company ...	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty-five thousand rupees of the excess. ...	<i>Nil.</i>
(ii) for every rupee of the next twenty-five thousand rupees of such excess ...	One anna in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess ..	One anna in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the second fifty thousand rupees of such excess ...	One and a half annas in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess ...	Two annas in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess ...	Two and a half annas in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess ...	Three annas in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess ...	Three and a half annas in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess ...	Four annas in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess ...	Four and a half annas in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess ...	Five annas in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess ...	Five and a half annas in the rupee.
(x) for every rupee of the remainder of the excess ...	Six annas in the rupee.

## ACT NO. VI OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 3rd April, 1927.)

### An Act further to amend the Madras Salt Act, 1889, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Salt Act, 1889,\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Salt (Amendment) Act, 1927.

2. In sub-clause (4) of clause B of section 43 of the Madras Salt Act, 1889,\* for the words “five per centum” the words

Amendment of section 43.  
Mad. Act IV of 1889.

“such percentage as the Central Board of Revenue may fix” shall be substituted.

**Notes.**—Under section 43 B(4) of the Madras Salt Act, (Madras Act IV of 1889), one of the charges that may be imposed on salt removed from any factory is a cess, representing the excess of the actual cost of the preventive establishment maintained at the factory over 5 per cent. of the duty collected on the salt issued from the factory the previous year. When the Act was passed the duty on Salt was Rs. 2-8 per maund. It is now only Re. 1-4 per maund. Meanwhile the cost of preventive staff has largely increased, owing to the general rise in scales of pay since the war. The result is that, whereas the original 5 per cent. of duty was usually sufficient to cover the cost of the preventive staff, and no cess had normally to be recovered from the licensees, the situation is now reversed. It is the intention of the Government that normally the cost of preventive establishment should be borne by themselves, not by the licensees. The provision for the levy of cess was intended only to apply to exceptional cases. In order to meet the changed situation created by the lowering of duty and the increase of establishment charges, it is proposed to amend the sub-section referred to so as to empower the Central Board of Revenue to prescribe the percentage of duty above which the cost of the establishment is to be borne by the licensees, and then to fix it so that in a year of average sales no charge on account of establishment will be borne by the licensee of a factory properly situated and efficiently managed.—*Statement of Objects and Reasons.*

## ACT NO. VII OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 3rd April, 1927.)

### An Act further to amend the Provident Funds Act, 1925, for a certain purpose.

WHEREAS it is expedient further to amend the Provident Funds Act, 1925,† for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short-title

1. This Act may be called the Provident Funds (Amendment) Act, 1927.

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\* Mad. Act II of 1889.

† XIX of 1925.

**2** In clause (d) of section 2 of the Provident Funds Act, 1925,\* for the Amendment of section 2, words "for teachers in educational institutions" the Act XIX of 1925. following words shall be substituted, namely :—

"for persons employed in educational institutions or employed by bodies existing solely for educational purposes"

**Notes.**—At the decease of the depositor, the provident fund rests in his widow or children. The Provident Funds Act (XIX of 1927) protects compulsory deposits in a Provident Fund from attachment but not from assignment, which may have been made to take effect on the depositor's retirement or on his death. Under clause (d) of section 2 of the Provident Funds Act of 1925, "Government Provident Fund" means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of the Government for any class or classes of its employees or for teachers in educational institutions. So according to this definition teachers in non-pensionable services are eligible to join a provident fund constituted for their benefit by the authority of the Government. By this Act, the words "for teachers in educational institutions" the words "of persons employed in educational institutions or employed by bodies existing solely for educational purposes are substituted." So by this amendment the Act extends the same privilege of making provision for old age to all classes of educational employees, holding non-pensionable posts, whether serving as teachers, or otherwise, in educational institutions or employed under educational administrative bodies.—*Vide Statement of Objects and Reasons.*

## ACT NO. VIII OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 3rd April, 1927)

### An Act further to amend the Sea Customs Act, 1878, for a certain purpose.

WHEREAS it is expedient further to amend the Sea Customs Act, 1878,† for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Sea Customs (Amendment) Act, 1927

**Notes.**—This Act was enacted to remove certain inequities and hardships

**2.** After section 34 of the Sea Customs Act, 1878,† (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

"34A. Where the Customs-collector is satisfied that any goods on which duties are levied on quantity and not on value, and which are of a kind to which the Governor General in Council has, by notification in the Gazette of India, declared that the provisions of this section shall apply, have before delivery of the bill of entry deteriorated to the extent of more than one-tenth of their value, he may allow an abatement of duty proportionate to the extent of such deterioration."

**Notes.**—The Sea Customs Act, 1878 (VIII of 1878) allows a partial rebate of duty on goods which have deteriorated or been damaged prior to entry provided the duty is leviable *ad valorem*, but the Act prohibits the making of a rebate where the duty is leviable on quantity and not on value. When the Act was framed the number

\* XIX of 1925.

† VIII of 1878.

of such specific duties was small, but recently specific duties have been substituted in a number of instances for *ad valorem* duties, and the consequent withdrawal of the concession on some of the articles affected notably sugar and paper, has constituted an undoubted hardship. The object of this Bill is to give power to the Government to sanction a rebate of specific duty proportionate to the deterioration in suitable cases. —*Report of the Select Committee.*

**3** In section 35 of the said Act, for the word "damage" the words "any deterioration" shall be substituted, and after the words "beer, or" the words "save as provided by section 34A" shall be inserted.

**Notes.**—These amendments have become necessary for the inclusion of section 34 A.

## ACT NO. IX OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received by the assent of the Governor General on the 3rd April, 1927.)

### An Act further to amend the Indian Limitation Act, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908,\* for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement. **1.** (1) This Act may be called the Indian Limitation (Second Amendment) Act, 1927.

(2) It shall come into force on the 1st day of January, 1928—

**Notes.**—In paragraph 4 of Chapter 30 of their Report the Civil Justice Committee recommended that section 48 of the Code of Civil Procedure, 1908, and Article 182 of the First Schedule to the Indian Limitation Act, 1908, should be amended so as to reduce the limit of time for execution in the case of money-decrees from 12 to 6 years, and to raise the period of limitation from 3 to 6 years, but to permit a decree-holder even after expiry of 6 years to apply for execution if he can show that the judgment-debtor has come into some property or that he has recently discovered that the judgment-debtor had property. If, however, it is decided to retain Article 182 in its present form, the committee recommended that it should be amended so as to provide that the period of 3 years should begin not from the date of the last application for execution, but from the date of the last order on such a previous application. The first proposal is not considered to be satisfactory, and the bill gives effect to the alternative proposal. —*Statement of Objects and Reasons.*

Amendment of Article 182, Schedule I, Act IX of 1908. **2.** In the Third Division of the First Schedule to the Indian Limitation Act, 1908,\* in Article No. 182—

- (a) in clause 5 of the entry in the third column, for the word "applying" the words "the final order passed on an application made" shall be substituted; and
- (b) for clause 6 of the same entry the following shall be substituted, namely :—

"6. (in respect of any amount, recovered by execution of the decree or order, which the decree-holder has been directed to refund by a decree passed in a suit for such refund) the date of such

\* IX of 1908.

last-mentioned decree or, in the case of an appeal therefrom, the date of the final decree of the Appellate Court or of the withdrawal of the appeal ”

**Notes.**—By virtue of the amendment made by clause (a) the period of limitation for a fresh application runs not from the date of application as mentioned in art. 182 but from the date of passing of the final order on the application. This amendment was made in pursuance of the recommendation made by the Civil Justice Committee. To constitute a step in aid of execution it must pray for some relief which can be granted by the Court 35 C. L. J. 82. Such an application must be made in accordance with the procedure prescribed therefor. 98 Ind. Cas. 33; but see 90 Ind. Cas. 847. As regards what applications amount to steps in aid of execution, vide 88 Ind. Cas. 548 = 21 L. W. 548; 80 Ind. Cas. 103 = 47 M. L. J. 447; 1925 Mad 880 = 48 M. L. J. 678; 84 Ind. Cas. 473 = 2 Rang. 392, 3 Pat. L. T. 298; 63 Ind. Cas. 844 = 23 Bom. L. R. 10 13; 79 Ind. Cas. 407 = 1924 Bom. 71; 88 Ind. Cas. 271 = 23 A. L. J. 422; 64 Ind. Cas. 524 = 19 A. L. J. 843; 63 Ind. Cas. 907 = 19 A. L. J. 641; 44 A. 743; 75 Ind. Cas. 312; 58 Ind. Cas. 747. But a colourable application for the purpose of saving limitation is not a step in aid of execution. 90 Ind. Cas. 938 = 1926 All. 95.

## ACT NO. X OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 4th April, 1927).

### An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

AND WHEREAS it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed;

It is hereby enacted as follows :—

**Notes.**—The object of the Act is to make necessary amendments of a formal nature in certain enactments and to repeal certain unnecessary enactments.—*Statement of Objects and Reasons.*

Short title.

1. This Act may be called the Repealing and Amending Act, 1927.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

**The European Deserters' Act, 1869, etc.**—In the European Deserters' Act, 1856, in the Indian Penal Code, 1860, in the Indian Evidence Act, 1872, in the Indian Oaths Act, 1873, in the Municipal Taxation Act, 1881, in the Transfer of Property Act, 1882, in the Indian Explosives Act, 1884, in the Indian Railways Act, 1890, in the Code of Criminal Procedure, 1898, in the Indian Stamp Act, 1899, in the Indian Tolls (Army) Act, 1901, in the Code of Civil Procedure, 1908, in the Indian Lunacy Act, 1912, in the Administrator General's Act, 1913, and in the Indian Succession Act, 1925, the amendments are made in order to apply those provisions of the Acts which are applicable in the case of the Land Forces to the Royal Air Force; which is now a separate branch of His Majesty's Forces and is governed by a separate Act of Parliament.—*Vide Statement of Objects and Reasons.*

**The Specific Relief Act, 1877 (I of 1877).**—This amendment is consequential on the amendment made by Act XI of 1923 whereby the High Court of Rangoon was included in section 45.

**The Indian Limitation Act, 1908 (XVI of 1908).**—The High Courts of Judicature have now replaced the Chief Courts of the Punjab and Lower Burma.

**The Cantonments Act, 1924 (II of 1924).**—The amendments in sections 51 and 52 are designed to make provisions for cases in which the Officer Commanding the District is himself, for the purposes of the Act, the Officer Commanding-in-Chief, the Command.

The amendment in section 287 is designed to effect the real object of that section which is merely that the cantonment authority should have information of the occurrence of any substantial transaction relating to immoveable property in the cantonment.

**The Transfer of Property (Amendment) Act, 1926.**—The amendment in the definition of the word "attested" is necessitated by a ruling of the High Court of Judicature at Allahabad to the effect that the present definition does not apply in the case of instruments attested before the passing of Act XXVII of 1926.

**The Indian Succession (Amendment) Act, 1926 (XL of 1926).**—The amendment has become necessary in as much as another Act of the same name has been passed during the year 1926.

**3. The enactments specified in the Second Schedule are hereby repealed**  
 Repeal of certain enact. to the extent mentioned in the fourth column there-  
 ments. of.

N.B.—This section has already been repealed by Act 12 of 1927.

**Criminal Procedure Code, section 54, sub-section (1).**—The word "and" at the end of the clause *seventhly* has been inadvertently put and by this section that word has been repealed.

**Criminal Procedure Code, section 269, sub-section (1).**—The word "with the previous sanction of the Governor General in Council" in sub-section (1) were omitted by section 2 and Schedule I of the Devolution Act, 1920 (XXXIII of 1920) but the words "with the like sanction" were not inadvertently omitted. These words as such were meaning less after the repeal of the words "with the previous sanction of the Governor General in Council." Now these words having been repealed by this Act this sub-section has become free from ambiguity.

**The Indian Registration Act.**—The office of Cantonment Magistrate has not been retained in the Cantonments Act, 1924, and the remaining provisions of section 9 are covered by section 5.

**The Delhi Laws Act, 1915.**—The Punjab Alienation of Land Act, 1900, has been extended to the territory within the Province of Delhi by the Notification in the Home Department, No. D. 430—25Judl., dated the 4th February, 1925, the entry relating to the abovementioned Act in Schedule II is therefore spent.

**Insolvency (Amendment) Act, 1926.**—The repeal of certain words in section 11 corrects a drafting or clerical error.

**The Chittagong Hill Tracts Regulation, 1900.**—The Repeal in column 5 of the Schedule is consequential on the amendment made in section 18 by Regulation IV of 1925.

**4. The repeal by this Act of any enactment shall not affect any Act or**  
 Savings Regulation in which such enactment has been applied,  
 incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing ;



nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

N. B.—This section has already been repealed by Act XII of 1927.

**Notes.**—This section lays down the law as stated in s. 6 of the General Clauses Act (Act X of 1897) which runs as follows : " Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then unless a different intention appears, the repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect ; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder ; or

(c) affect any right privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ; or

(d) any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or

(e) affect any investigation, legal proceedings or remedy in respect of any such right privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Repealing Act or Regulation had not been passed." A vested right under the old Code which has been repealed by section 3 will be protected by this section. Vide. s. 38 of the Interpretation Act, 1889 (52 and 53, Vict. C. 63) ; 14 O. C. 10 ; 20 C. W. N. 952 = 34 Ind. Cas. 27 ; 27 C. W. N. 183 ; 45 Ind. Cas. 109 = 40 M. 1009 ; 17 C. L. J. 318 ; 18 C. L. J. 274 ; 39 M. 645.

## THE FIRST SCHEDULE.

### AMENDMENT.

(See Section 2.)

Year.	No.	Short title.	Amendments.
1856	XI	The European Deserters Act, 1856.	<p>(1) In the title, after the word "Soldiers" the words "and Airmen" shall be inserted, and after the word "Land" the words "and Air" shall be inserted.</p> <p>(2) In the Preamble, after the word "Land" the words "and Air" shall be inserted.</p> <p>(3) In sections 1, 5 and 6, for the words "or soldiers," wherever they occur, the words "soldier or airman" shall be substituted.</p> <p>(4) In section 7, for the words "military station" the words "military or airforce station, as the case may be" shall be substituted.</p>

Year.	No.	Short title.	Amendments.
1860	XLV	The Indian Penal Code.	<p>(1) In section 5, for the words "and soldiers" the words "soldiers or airmen" shall be substituted.</p> <p>(2) In section 21, in the clause beginning with the word "<i>Second</i>," for the words "or Naval" the words "Naval or Air" shall be substituted.</p> <p>(3) In the heading to Chapter VII, for the words "and Navy" the words "Navy and Air Force" shall be substituted</p> <p>(4) In section 131—</p> <p>(i) for the words "or sailor" wherever they occur, the words "sailor or airman" shall be substituted.</p> <p>(ii) for the words "or Navy" the words "Navy or Air Force" shall be substituted;</p> <p>(iii) in the <i>Explanation</i>, for the words "and 'soldier'" the words "'soldier' and 'airman'" shall be substituted, and for the words and figures "Articles of War for the better government of Her Majesty's Army or to the Articles of War contained in Act No V of 1869" the words "Army Act, the Indian Army Act, 1911, or the Air Force Act, as the case may be" shall be substituted.</p> <p>(5) In sections 132, 133, 134, 135, 136, 138 and 505—</p> <p>(i) for the words "or sailor" wherever they occur, the words "sailor or airman" shall be substituted;</p> <p>(ii) for the words "or Navy" wherever they occur, the words "Navy or Air Force" shall be substituted.</p> <p>(6) In section 137, for the words "or Navy" the words "Navy or Air Force" shall be substituted.</p> <p>(7) In section 139, for the words "any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy" the words and figures "the Army Act, the Indian Army Act, 1911, the Naval Discipline Act or the Air Force Act" shall be substituted.</p> <p>(8) In section 140—</p> <p>(i) after the word "soldier" wherever it occurs, the words "sailor or airman" shall be inserted;</p> <p>(ii) for the words "or Naval" the words "Naval or Air" shall be substituted.</p>
1872	I	The Indian Evidence Act, 1872.	<p>(1) In section 1, after the words "Army Act" the words "or the Air Force Act" shall be inserted.</p> <p>(2) In sub-section (3) of section 57, for the words "or Navy" the words "Navy or Air Force" shall be substituted.</p>

Year.	No.	Short title.	Amendments.
1873	X	The Indian Oaths Act, 1873.	In clause (b) of section 4 after the word "military" the words "or air-force" shall be inserted.
1877	I	The Specific Relief Act, 1877.	In section 45, clause (f), the word "or" shall be omitted, and after the word "Bengal" the words "or on the Governor of Burma in Council" shall be added.
1881	XI	The Municipal Taxation Act, 1881.	(1) In the Preamble, after the word "military" the words "or air-force" shall be inserted. (2) In clause (a) of section 3— (i) for the words and figures "Army Discipline and Regulation Act, 1879, or the Indian Articles of War" the words "Army Act, the Indian Army Act, 1911, or the Air Force Act" shall be substituted; (ii) after the word "military" the words "or air-force" shall be inserted.
1882	IV	The Transfer of Property Act, 1882.	(3) In section 6, after the word "military" the words "or air-force" shall be inserted.
1884	IV	The Indian Explosives Act, 1884.	In clause (g) of section 6, after the word "military" the words "air-force" shall be inserted.
1890	IX	The Indian Railways Act, 1890.	In clause (b) of section 14, after the word "sailor" the word "airman" shall be inserted. (1) In sub-section (5) of section 59, after the word "sailor" the word "airman" shall be inserted. (2) In section 79— (i) after the word "soldier", in both places where it occurs, the word "airman" shall be inserted; (ii) after the word "military" the words "or air-force" shall be inserted.
1898	V	The Code of Criminal Procedure, 1898.	(1) In sub-section (1), clause <i>sixthly</i> , of section 54, for the words "Army or Navy" the words "Army, Navy or Air Force" shall be substituted. (2) In the second proviso to section 188, for the words and figures "the Foreign Jurisdiction and Extradition Act, 1879" the words and figures "the Indian Extradition Act, 1903" shall be substituted. (3) in section 317— (i) in sub-section (1), after the word "Army" the words "or Air Force" shall be inserted; and (ii) in sub-section (2), for the word "military", in both places where it occurs, the word "official" shall be substituted. (4) In clause (g) of section 320, after the word "Army" the words "or Air Force" shall be inserted.

Year.	No.	Short title.	Amendments.
1898	V	The Code of Criminal Procedure, 1898— <i>contd.</i>	<p>(5) In sub-section (1) of section 549—</p> <p>(i) for the words "Army Act or" the words "Army Act and the Air Force Act and" shall be substituted ;</p> <p>(ii) for the words "military law" the words "military or air-force law" shall be substituted ;</p> <p>(iii) after the word and figures "section 41" the words and figures "or under the Air Force Act, section 41" shall be inserted ;</p> <p>(iv) for the words "military station" the words "military or air-force station, as the case may be." shall be substituted.</p> <p>(6) In Schedule II—</p> <p>(i) in the entries in column 2 against sections 131, 133, 135, 136 and 138, for the words "or sailor" the words "sailor or airman," shall be substituted ;</p> <p>(ii) in the entry in column 2 against section 140, after the word "soldier," in both places where it occurs, the words "sailor or airman" shall be inserted.</p>
1899	II	The Indian Stamp Act, 1899.	<p>In Article No. 53 of Schedule I—</p> <p>(i) in clause (d), for the words "or soldiers" the words "soldiers or airmen" shall be substituted, and for the words "Her Majesty's Army or Her Majesty's Indian Army" the words "His Majesty's military or air forces" shall be substituted ;</p> <p>(ii) in clause (e), for the words "or soldier" the words "soldier or airman" shall be substituted, and for the words "either of the said Armies" the words "any of the said forces" shall be substituted ;</p> <p>(iii) in clause (f), for the words "or soldiers" the words "soldiers or airmen" shall be substituted.</p>
1901	II	The Indian Tolls (Army) Act, 1901.	<p>(1) In the Title, after the word "Army" the words "or Air Force" shall be added.</p> <p>(2) In the Preamble—</p> <p>(i) in the first paragraph, after the word "soldiers" the word "airmen" shall be inserted, after the words "attached to the Army" the words "or to the Air-Force" shall be inserted, and after the words and figures "section 143 of the Army Act" the words and figures "or by section 143 of the Air-Force Act" shall be inserted ;</p>

Year.	No.	Short title.	Amendments.
1901	II	The Indian Tolls (Army) Act, 1901 — <i>contd.</i>	<p>(ii) in the third paragraph, after the word "Army" where it occurs for the second time, the words "or Air-Force" shall be inserted ;</p> <p>(iii) in the fourth paragraph after the words and figures "section 169 of the said Army Act" the words and figures "and by section 169 of the said Air-Force Act" shall be inserted, and after the words and figures "section 143 of the said Army Act" the words and figures "and by section 143 of the said Air-Force Act" shall be added.</p> <p>(3) In clause (b) of section 2, after the word "includes" the words "His Majesty's Regular Air-Force as defined by section 190, clause (8), of the Air-Force Act and also" shall be inserted</p> <p>(4) In section 3—</p> <p>(i) after the word "military" wherever it occurs, the words "or air-force" shall be inserted ;</p> <p>(ii) in clause (a), for the words "and soldiers" the words "soldiers and airmen" shall be substituted, and after the words "Regular Forces" the words "and all officers and soldiers of" shall be inserted ;</p> <p>(iii) in clause (f), after the word "soldiers" the word "airmen" and after the word "soldier" the word "airman" shall be inserted.</p> <p>(5) In sub-section (1) of section 4, after the word "military" the words "or air-force" shall be inserted.</p>
1908	V	The Code of Civil Procedure, 1908.	<p>(1) In Order V in the First Schedule—</p> <p>(i) in rule 27, for the words "or naval" the words "naval or air" shall be substituted ;</p> <p>(ii) in rule 28, after the word "soldier" the words "or airman" shall be inserted</p> <p>(2) In Order XXVIII in the First Schedule—</p> <p>(i) in the heading after the words "Military Men" the words "or Airmen" shall be inserted ;</p> <p>(ii) in rule 1—</p> <p>(a) for the words "or soldier" wherever they occur, the words "soldier or airman" shall be substituted ;</p> <p>(b) after the word "military" wherever it occurs, the words "or air-force" shall be inserted ;</p> <p>(iii) in rules 2 and 3, for the words "or a soldier" and for the words "or soldier" wherever they occur, the words "soldier or airman" shall be substituted.</p>

Year.	No.	Short title.	Amendments.
1908	IX	The Indian Limitation Act, 1908.	In the First Schedule, Article 162—  After the words "by any of" the words "the following Courts, namely," shall be inserted, and for the words "and Bombay or the Chief Court of Sind, or the Chief Court of the Punjab or the Chief Court of Lower Burma" the words "Bombay, Lahore and Rangoon and the Chief Court of Sind" shall be substituted.
1912	IV	The Indian Lunacy Act, 1912.	(1) In section 12, after the words "Army Act" the words "or the Air Force Act" shall be inserted, and after the word "military" the words "or air-force" shall be inserted. (2) In sub-sections (2) and (3) of section 32 after the word "military" wherever it occurs, the words "or air-force" shall be inserted.
1913	III	The Administrator General's Act, 1913	(1) In the heading to sections 15, 16 and 17, after the words "Army Act" the words "or the Air Force Act" shall be added. (2) In section 17, after the words "Army Act" the words "or the Air Force Act" shall be inserted.
1924	II	The Cantonments Act, 1924.	(1) In sub-section (1) of section 51, after the word "Command," the words "the reference being made, save in cases where the Officer Commanding the District is himself the Officer Commanding-in-Chief, the Command, for the purposes of this Act," shall be inserted. (2) In sub-section (1) of section 52, after the word "District" the words "or, where the Officer Commanding the District is himself the Officer Commanding-in-Chief, the Command, for the purposes of this Act, of his own motion," shall be inserted. (3) In sub-section (2) of section 287, for the words "when any application for the registration of a document relating to immoveable property within the cantonment is made, cause a copy thereof to be forwarded" the words "when any document relating to immoveable property within the cantonment is registered, send information of the registration" shall be substituted.
1925	XXXIX	The Indian Succession Act, 1925.	(1) In the <i>Explanation</i> to section 10, for the words "or military" the words "military or air-force" shall be substituted. (2) In sections 63 and 65, after the word "warfare" the words "or an air-man so employed or engaged," shall be inserted. (3) In clauses (e), (f) and (g) of section 66, after the word "soldier" the word "airman" shall be inserted. (4) In section 157, in the <i>Illustration</i> , for the figures "5,000" the figures "500" shall be substituted.

Year.	No.	Short title.	Amendments.
1926	XXVII	The Transfer of Property (Amendment) Act, 1926.	In section 2, in the definition of the word "attested" after the word "means" the words "and shall be deemed always to have meant" shall be inserted
1926	XL	The Indian Succession (Amendment) Act, 1926.	In section 1, for the word and brackets "Amendment" the words and brackets "(Second Amendment)" shall be substituted.

### THE SECOND SCHEDULE.

REPEALED BY ACT XII OF 1927.

#### REPEALS.

(See section 3)

Year.	No.	Short title.	Repeals.
<i>Acts of the Governor General in Council or of the Indian Legislature.</i>			
1898	V	The Code of Criminal Procedure, 1898.	(1) In sub-section (1) of section 54, at the end of the clause <i>seventhly</i> , the word "and" (2) In sub-section (1) of section 269, the words "with the like sanction."
1908	XVI	The Indian Registration Act, 1908.	Section 9.
1915	VII	The Delhi Laws Act, 1915	In Schedule II, the entry relating to the Punjab Alienation of Land Act, 1900.
1926	IX	The Insolvency (Amendment) Act, 1926.	In clause (c) of section 11, the words and figures "sub-sections (1), (2) and (3) of "
<i>Regulation by the Governor General in Council.</i>			
1900	I	The Chittagong Hill Tracts Regulation, 1900.	In column 5 of the Schedule in the entry against the Code of Criminal Procedure, 1898, the word "diwans."

# ACT NO. XI OF 1927.

[ PASSED BY THE INDIAN LEGISLATURE. ]

*(Received the assent of the Governor General on the 2nd September, 1927.)*

## **An Act further to amend the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, for certain purposes.**

WHEREAS it is expedient further to amend the Presidency-towns Insolvency Act, 1909,\* and the Provincial Insolvency Act 1920,† for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

**Notes.**—This Amending Act intends to put a stop to a large number of infructuous applications for adjudication after annulment of insolvency. Under section 9, clause (iii) (b) of the Presidency Towns Insolvency Act, a debtor commits an act of insolvency if he is imprisoned in execution of the decree of any Court for the payment of money. In such a case the Court can entertain an application for insolvency of the debtor. Under section 25 (1) of the same Act any insolvent who shall have submitted his schedule as prescribed in the Act may apply to the Court for protection, and the Court may, on such application, make an order for the protection of the insolvent from arrest or detention. Under sub-section (3) of section 25, a protection order shall protect the insolvent from being arrested or detained in prison for any debt to which such order shall apply, and any insolvent arrested or detained contrary to the terms of such order shall be entitled to his release. Provided that no such order shall operate to prejudice the right of any creditor in the event of such order being revoked or the adjudication annulled. Under sub-section 5 of the same section, the Court may make a protection order before an insolvent has submitted his schedule if it thinks it necessary to do so in the interest of the creditors. But after getting the protection order the debtor insolvent may not prosecute the application for his final discharge. In such a case of course protection order shall not operate to prejudice the right of any creditor. But if the creditor again tries to imprison him, he can also file a second petition for insolvency and there is nothing in the Presidency Towns Insolvency Act to bar such applications. This amendment is made in order to remove this defect in the Presidency Towns Insolvency Act.

Short title.

**1. This Act may be called the Insolvency (Amendment) Act, 1927.**

**2. Section 14 of the Presidency-towns Insolvency Act, 1909,\* shall be re-numbered as sub section (1) of section 14, and to that section the following sub-section shall be added, namely :—**

Amendment of section  
14, Act III of 1909.

“(2) A debtor in respect of whom an order of adjudication, whether made under this Act or under the Provincial Insolvency Act, 1920,† has been annulled owing to his failure to apply or to prosecute an application for his discharge shall not be entitled to present an insolvency petition without the leave of the Court by which the order of adjudication was annulled. Such Court shall not grant leave unless it is satisfied either that the debtor was prevented by any reasonable cause from presenting or prosecuting his application, as the case may be, or that the petition is founded on facts substantially different from those contained in the petition on which the order of adjudication was made.”

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\* III of 1909.

† V of 1920.



**Notes.**—This sub-section has been framed in accordance with, sub-section 2 of section 10 of the Provincial Insolvency Act. If an insolvent debtor's adjudication be annulled owing to his failure to apply or to prosecute an application for his discharge, the protection order mentioned in section 25 of the Presidency Towns Insolvency Act will become inoperative. He will no more be protected from being arrested or detained in prison for his debts. By this section also he will be further debarred from filing a fresh application without the leave of the Court. This sub-section appears to be an improvement over section 10 (2) of the Provincial Insolvency Act, 1920 (V of 1920) in as much as this sub-section makes provisions that such a bar is applicable even when an order of adjudication made under the Provincial Insolvency Act, 1920, has been annulled owing to the applicant's failure to apply or to prosecute an application for his discharge.

**3.** In sub-section (1) of section 21 of the same Act, after the words "annul the adjudication" the following words shall be added, namely :—

"and the Court may, of its own motion or on application made by the official assignee or any creditor, annul any adjudication made on the petition of a debtor who was, by reason of the provisions of sub-section (2) of section 14, not entitled to present such petition"

**Notes.**—Under sub-section 1 of section 21, the Court may on the application of any person interested, by order annul the adjudication where according to the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where the Court is satisfied that the debtor insolvent has paid his debts in full. A discharge of debts by payment of four annas in the Rupee is not a full payment. 43 M. 71=37 M. L. J. 244. The Court must be satisfied that the debts including interests as they stood before the bankruptcy has been fully paid. 60 Ind. Cas. 943=47 C. 914; see also 19 Bom. L. R. 35=40 Ind. Cas. 207. By this amendment provision is made for the annulment of an order of adjudication, by the Court on its own motion or at the instance of the official assignee or any creditor when an insolvent obtains such adjudication on an application presented without leave of the Court under section 14 (2).

**4.** In sub-section (2) of section 10 of the Provincial Insolvency Act, 1920,\* for the words "made under this Act" the words "whether made under the Presidency-towns Insolvency Act, 1909,† or under this Act" shall be substituted.

**Notes.**—By this amendment the scope of the section is widened. Under the amended section the debtor must obtain the leave of the Court even where he applied previously under the Presidency Towns Insolvency Act, 1909. Hitherto after failing to apply or to prosecute an application for his discharge under the Presidency-towns Insolvency Act, he could apply under the Provincial Insolvency Act and section 10 (2) would not bar such an application.

**5.** In section 35 of the same Act, after the words "annul the adjudication" the following words shall be added, namely :—

"and the Court may, of its own motion or on application made by the receiver or any creditor, annul any adjudication made on the petition of a debtor who was, by reason of the provisions of sub-section (2) of section 10, not entitled to present such petition."

**Notes.**—By this amendment the provisions of the Provincial Insolvency Act are brought into line with the amendments made in the Presidency Towns Insolvency Act. —*Vide Statement of Objects and Reasons.*

\* V of 1920.

† III of 1909.

## ACT NO. XII OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 8th September, 1927.)

### An Act to repeal certain enactments.

WHEREAS it is expedient that certain enactments specified in the Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed ;

It is hereby enacted as follows :—

**Notes.**—The object of the Bill is to repeal certain enactments which are spent or have otherwise become unnecessary or have ceased to be in force otherwise than by express specific repeal. It is the practice to remove from the Statute-book obsolete enactments from time to time and as a new edition of the Unrepealed General Acts is passing through the Press it is desirable that the necessary elimination should be made now.—*Statement of Objects and Reasons.*

Short title.

1. This Act may be called the Repealing Act, 1927.

Repeal of certain enactments.

2. The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

**The Pensions Act, 1871.**—The Bengal Regulation, 1 of 1804 which related to invalid jagirs and pensions was repealed by Act 29 of 1871.

**The Indian Evidence Act, 1872.**—Act XV of 1852 was repealed by Act I of 1872, Act XIX of 1853 was repealed in Assam by Act I of 1903. Section 26 of the Act is in force in Assam, Act II of 1855 was repealed by Act I of 1872 and Act XXV of 1861 was wholly repealed by Act 10 of 1872.

**The Scheduled Districts Act, 1874.**—The Act XXXVII of 1855 is the Sonthal Parganas Act, 1855 and Act X of 1857 is the Sonthal Parganas Act, 1857.

**The Laws Local Extent Act, 1874.**—According to section 3 of the Laws Local Extent Act, 1874, the Acts mentioned in the first schedule are in force throughout the British India except the Scheduled Districts. Of these Acts, Act XXVI of 1836 having been repealed by Act 12 of 1891, Act XIX of 1841 having been repealed by Act 39 of 1925, Act XX of 1847 having been repealed by Act 3 of 1914, Act XXX of 1852 having been repealed by Act 7 of 1925, Act VI of 1864 having been repealed by Act 4 of 1909, Act XXI of 1865 having been repealed by Act 39 of 1925, Act V of 1866 having been repealed by Act 2 of 1900, Act XV of 1869 having been repealed by Act 3 of 1900 and Act I of 1870 having been repealed by Act 3 of 1901, the references to these Acts have been omitted from the First Schedule to the Laws Local Extent Act. So also Act IX of 1846 having been repealed by Mad Act 1 of 1893, Act XXI of 1855 having been repealed by Mad Act I of 1902, Act VIII of 1856 having been repealed by Mad. Act 9 of 1894 and Act XXVIII of 1860 having been repealed by Mad. Act 4 of 1897 and Reg. 1 of 1899 the references to these Acts have been omitted from the second Schedule to the laws local Extent Act.

**Presidency Small Cause Courts Act, 1882.**—The Act X of 1877 was repealed by Act XV of 1882. Although the Repealing Act was itself repealed but it did not revive the repealed Act and as such by the repeal of the Act XV of 1882, the Act X of 1877 was not revived and as such a mention of such an Act is no more necessary in Act XV of 1882.

**The Amending Act, 1891.**—The Act I of 1859 having been repealed by Act XXI of 1913, Act X of 1865 having been repealed by Act 39 of 1925, Act V of 1881, having been repealed by Act 39 of 1925, and Act XIV of 1883 having been repealed by U. P. Act. 3 of 1906, the references to these Acts have been omitted from the schedule.

**The Amending Act, 1897.**—The Acts XXXIII of 1850 and Act XIX of 1871 having been repealed by Act I of 1903, the references to these Acts, have been omitted.

**The Indian Short Titles Act, 1897.**—Act XIX of 1841 having been repealed by Act 39 of 1925, Act XXVII of 1841 having been repealed by Act 3 of 1909, Act XX of 1847 having been repealed by Act 3 of 1914, Act XXXIV of 1858, Act XXXV of 1858 and Act XXXVI of 1858 having been repealed by Act 4 of 1912, Act XLVII of 1860 having been repealed by Act 8 of 1904, Act XVI of 1864 having been repealed by Act 4 of 1909, Act XXI of 1865 having been repealed by Act 39 of 1925, Act I of 1870 having been repealed by Act 3 of 1901, Act II of 1877 having been repealed by Act 14 of 1897, Act I of 1884 having been repealed by Act 8 of 1904, Act XV of 1885 having been repealed by Act 9 of 1914, Act XVIII of 1886 having been repealed by Act 4 of 1912, Act VI of 1887 having been repealed by Act 7 of 1913, Act X of 1888 having been repealed by Act 5 of 1908, Act II of 1890 having been repealed by Act I of 1890, Act XIX of 1890 having been repealed by Act 10 of 1914, Act VII of 1894 having been repealed by Act 3 of 1900, Act III of 1896 having been repealed by Act 4 of 1916 and Act VII of 1896 having been repealed by Act I of 1903, the references to these Acts have been omitted

**The Burmas Laws Act, 1898.**—Act XX of 1847 having been repealed by Act 3 of 1914, Act XXX of 1852 having been repealed by Act 7 of 1925, Acts XXXV and XXXVI of 1858 having been repealed by Act 4 of 1912, Act VI of 1864 having been repealed by Act 4 of 1909, Act XXI of 1865 having been repealed by Act 39 of 1925, Act 3 of 1867 having been repealed by Bur. Act I of 1899, Act V of 1869 having been repealed by Act 8 of 1911, Act XV of 1869 having been repealed by Act 3 of 1900, Act XXIII of 1870 having been repealed by Act 3 of 1906, Act II of 1874 having been repealed by Act 3 of 1913, Act V of 1875 having been repealed by Act 8 of 1911, Act XI of 1876 having been repealed by Act 47 of 1920, Act II of 1877 having been repealed by Act 8 of 1903, Act XI of 1877 having been repealed by Act 4 of 1912, Act XV of 1877 having been repealed by Act 9 of 1908, Act I of 1879 having been repealed by Act 12 of 1879, Act III of 1879 having been repealed by Act 5 of 1917, sch. Act XX of 1879 having been repealed by Act 13 of 1899, Act V of 1881, having been repealed by Act 39 of 1925, Act VI of 1882 having been repealed by Act 7 of 1917, Act XIV of 1887 having been repealed by Act 5 of 1908, Act XVIII of 1882 having been repealed by Bur. Act 2 of 1910, Act XX of 1882 having been repealed by Act 3 of 1905, Act VI of 1884 having been repealed by Act I of 1917, Act XVI of 1884 having been repealed by Bur. Act I of 1899, Act II of 1886 having been repealed by Act VII of 1918, Act XII of 1886 having been repealed by Act 8 of 1899, Act XIII of 1886 having been repealed by Act 10 of 1920, Act XXII of 1887 having been repealed by Act 3 of 1903, Act V of 1888 having been repealed by Act 2 of 1911, Act VI of 1889 having been repealed by Act 39 of 1925, Act XI of 1889 having been repealed by Act 6 of 1900, Act XIII of 1889 having been repealed by Act 15 of 1910, Act XV of 1893 having been repealed by Act 3 of 1900, Act IX of 1895 having been repealed by Act 15 of 1903, Act IX of 1897 having been repealed by Act 19 of 1925, Act XII of 1897 having been repealed by Act 9 of 1914, Act II of 1897 having been repealed by Act 8 of 1900, the references to these Acts have been omitted.

**The Amending Act, 1901.**—Mad. Reg. 7 of 1808 having been repealed by Act 4 of 1922, Act XXI of 1855 having been repealed by Mad. Act 1 of 1902, Act XXX of 1865 having been repealed by Act 17 of 1914, Mad. Act 8 of 1865 having been repealed by Mad. Act I of 1908, Mad. Act 5 of 1866 having been repealed by Mad. Act 2 of 1909, Mad. Act 2 of 1871 having been repealed by Act 11 of 1901, Mad. Act 3 of 1886 having been repealed by Mad. Act 2 of 1905, Mad. Act I of 1892 having been repealed by Mad. Act 2 of 1905, Mad. Act 2 of 1898 having been repealed by Mad. Act 2 of 1905 and Mad. Act 3 of 1900 having been repealed by Mad. Act 2 of 1905 references to these Acts have been omitted.

**The Indian Census Act, 1900.**—This Act is spent and as such it is repealed.

**The Amending Act, 1903.**—Act 7 of 1876 having been repealed by Act 3 of 1911, the reference to this Act is omitted.

**The Indian Census Act, 1910.**—This Act is spent and as such it is repealed.

**The Indian Patents and Designs Act, 1911.**—By section 80 of the Indian Patents and Designs Act, 1911, the Inventions and Designs Act, 1888 was repealed. Now section 80 is also repealed. But this repeal will not revive the Inventions and Designs Act of 1888, vide section 3 *infra* and notes thereunder.

**The Indian Army Act, 1911.**—Section 127 and the Schedule to the Act relate to repeals of previous enactments. That section and the Schedule are now repealed. But this repeal will not revive the enactments repealed thereby. Vide section 3 *infra* and notes thereunder.

**The Prevention of seditious Meetings Act, 1911.**—Section 9 also repeals the Seditious Meetings Act, 1907 (Act V of 1907).

**The Official Trustees Act, 1913.**—Section 33 and the Schedule of the Act repeal certain previous enactments.

**The Administrator Generals Act, 1913.**—Section 60 and Schedule of the Act repeal certain previous enactments.

**The Indian Copyright Act, 1914.**—Section 15 and the second Schedule of the Act also repeal certain previous enactments.

**The Decentralization Act, 1914.**—Act 2 of 1896 having been repealed by Act 19 of 1926, Act VI of 1900 having been repealed by Act II of 1923, Act 8 of 1901 having been repealed by Act 4 of 1923 and Act 16 of 1903 having been repealed by B. & O. Act I of 1924, the references to these Acts have been omitted.

**The Motor Vehicles Act, 1914.**—Section 9 and the Schedule II of the Act repeal certain previous enactments.

**The Local Authorities Loans Act, 1914.**—Section 9 and the second Schedule of the Act also repeal certain previous enactments.

**The Repealing and Amending Act, 1914.**—Section 3 and the second schedule repeal certain enactments. Section 4 relates to savings and the provision of that section is reproduced in section 3 of this Act and as such that section being no longer necessary has been repealed.

**The Emergency Legislation Continuance Act, 1915.**—This Act was to remain in force during the Great European War and six months thereafter and as such it is no longer in force.

**The Indian Patents and Designs (Temporary Rules) Act, 1915.**—That Act was also to remain in force during the Great European War and six months thereafter. So this Act is no longer in force.

**The Repealing and Amending Act, 1915.**—Section 3 and the Schedule II repeal certain enactments. Section 4 has been embodied in section 3 of this Act.

**The Enemy Trading Act, 1915.**—This Act was to remain in force during the Great European War and six months thereafter, as such the Act is no longer in force.

**The Foreigners' Trial by Court Martial Act, 1916.**—This Act was also to remain in force during the Great European War and six months thereafter.

**The Indian Tariff (Amendment) Act, 1916.**—Section 5 and Schedule II repeal certain previous enactments.

**The Enemy Trading Act, 1916.**—This Act also was to remain in force during the Great European War and six months thereafter, and as such the Act is no longer in force.

**The Import and Export Act, 1916.**—This Act was also to remain in force during the Great European War and six months thereafter. It is no longer in force.

**The Indian Bills of Exchange Act, 1916.**—This Act was also to remain in force during the Great European War and six months thereafter. It is no longer in force.

**The Indian Steam Vessels Act, 1917.**—Section 75 and the Schedule II of the Act repeal certain previous enactments.

**The Destruction of Records Act 1917.**—Section 6 and the Schedule repeal certain previous enactments.

**The Indian Bills of Exchange Amendment Act, 1917.**—This Act was also to remain in force during the Great European War and six months thereafter. It is no longer in force.

**The Gold (Import) Act, 1917.**—This Act was also to remain in force during the Great European War and six months thereafter.

**The Repealing and Amending Act, 1917.**—Section 3 and the second schedule relate to repeal and section 4 corresponds to section 3 of the present Act.

**The Indian Army (Amendment) Act, 1918.**—Section 26 and the Schedule II repeal certain enactments.

**The Gold Coinage Act, 1918.**—It is also a war legislation and expired after six months of the termination of the war.

**The Enemy Trading Orders Validation Act, 1918.**—This is also a war legislation. This Act was enacted in order to terminate doubts which have arisen as to the continuance in force of notifications, orders and rules made or issued under the Enemy Trading Ordinance, 1916. Now this Act is repealed as it is no longer necessary.

**The Indian Non-ferrous Metal Industry Act, 1918.**—This Act was to remain in force during the continuance of the Great European war and five years thereafter. Now it is spent and as such it is repealed.

**The Motor Spirit (Duties) Amendmend Act, 1919.**—This is only a repealing Act.

**The Poisons Act, 1919.**—Section 10 of the Act repeals Act I of 1904. But by this repeal Act I of 1904 is not revived.

**The Repealing and Amending Act, 1919.**—Section 3 and the second schedule deal with repeals of certain previous enactments and section 4 relates to savings.

**The Indian Census Act, 1920.**—The Act is now spent.

**The Provincial Insolvency Act, 1920.**—Section 69 and the schedule III relate to repeals of certain previous enactments.

**The Indian Securities Act, 1920.**—Section 25 relates to repeals.

**The Indian Army (Suspension of sentences) Act, 1920.**—Section 10 relates of certain enactments.

**The Indian Patents and Design (Temporary Rules) Act, 1920.**—This Act was enacted in order to extend the priod of Act VI of 1915. It has now expired.

**The Rouble Note Act, 1920.**—That Act was to remain in force only for one year.

**The Repealing and Amending Act, 1920.**—Section 3 and the second schedule relate to repeals and section 4 lays down a saving clause like section 3 of this Act.

**The Indian Coinage (Amendment) Act, 1920.**—The amendment made by this Act has already been repealed by Act IV of 1927 hence the Act is no larger of any use.

**The Indian Amry Amending Act 1920.**—Section 10 of the Act relates to repeals.

**The Devolution Act, 1920.**—The Acts mentioned in the third column having been repealed by various Acts, the references to these Acts have been omitted.

**The Imperial Bank of India Act, 1920.**—Section 34 and schedule III relate to repeals of certain previous enactments.

**The Auxiliary Force Act, 1920.**—Section 36 and Schedule II relate to repeals.

**The Import and Export of goods Amendment Act, 1921.**—The Act extended the period of Act XI of 1916 up to 31st March, 1922. The Import and Export of goods Act, 1916 having been repealed by the present Act, the extending Act is also repealed.

**The Indian Works of Defence (Amendment) Act, 1921.**—Section 4 of the Act relates to repeal.

**The Indian Penal Code (Amendment) Act, 1921.**—Section 4 of the Act repeals sections 61 and 62 of the Indian Penal Code.

**The Cattle-trespass (Amendment) Act, 1921.**—Section 3 of the Act also repeals, section 5 of the Cattle Trespass Act (1871) Amendment Act, 1891.

**The Indian Factories (Amendment) Act, 1922.**—Section 33 and the second Schedule relate to repeals.

**The Special Laws Repeal Act, 1922.**—By this repeal the repealed Acts are not revived.

**The Indian Criminal Law (Amendment) Repealing Act, 1922.**—By this repeal also the portion of the Criminal Law repealed by Act V of 1922 is not revived.

**The Indian Emigration Act, 1922.**—Section 33 of the Act relates to repeal of the Emigration Act, 1908.

**The Indian Income-tax Act, 1922.**—Section 68 of the Act and the Schedule repeal certain enactments.

**The Indian Finance Act, 1922.**—According to sub-section (3) of section 1 sections 2, 4 and 7 remained in force only up to the 31st day of March, 1923. Section 8 of the Act repealed the Freight (Railway and Inland Steam Vessel) Tax Act, 1917.

**The India Mines Act, 1923.**—Section 50 and the Schedule repeal certain enactments.

**The India Boilers Act, 1923.**—Section 35 and the Schedule repeal certain enactments.

**The Cantonments (House Accommodation) Act, 1923.**—Section 39 and the Schedule repeal certain enactments.

**The Repealing and Amending Act, 1923.**—Section 3 and the second Schedule relate to repeals and section 4 enacts a saving clause.

**The Criminal Law Amendment Act, 1923.**—These sections repeal certain sections of the Criminal Procedure Code.

**The Criminal Procedure Code, (Amendment) Act, 1923.**—These sections repeal certain sections of the Criminal Procedure Code and the Court Fees Act, 1870.

**The Indian Official Secrets Act, 1923.**—This section relates to repeals.

**The Indian Merchant Shipping Act, 1923.**—Section 296 and Schedule V relate to repeals of certain previous enactments.

**The Indigo Cess (Repealing) Act, 1923.**—This Act is only a repealing Act and repeals the Indigo Cess Act, 1918. By this repeal the latter Act is not revived.

**The Code of Criminal Procedure (Second Amendment) Act, 1923.**—This section repeals section 98 and section 104 of the Code of Criminal Procedure (Amendment) Act, 1923 (Act XVIII of 1923).

**The Cantonment Act, 1924.**—Section 292 and the Schedule VI relate to repeals.

**The Central Board of Revenue Act, 1924.**—Act II of 1896 is the Cotton Duties Act, 1896 which has been repealed by Act 19 of 1926.

**The Criminal Tribes Act, 1924.**—Section 30 and the Second Schedule relate to repeals.

**The Repealing and Amending Act, 1924.**—Section 3 and the second Schedule relate to repeals of certain enactments and section 4 enacts a saving clause.

**The Sea Customs (Amendment) Act, 1924.**—It is a purely repealing Act and by this Act section 20 of Act VIII of 1878 has been omitted.

**The Workman's Breach of Contract (Repealing) Act, 1925.**—This is also a purely repealing Act.

**The Indian Soldiers (Litigation) Act, 1925.**—Section 15 repeals Act IX of 1918 and Act XII of 1924.

**The Indian Finance Act, 1925.**—Vide notes under Indian Finance Act, 1922.

**The Indian Tariff (Amendment) Act, 1925.**—Such items are no longer necessary.

**The Provident Funds Act, 1925.**—Section 10 and the Schedule relate to repeals.

**The Opium (Amendment) Act, 1925.**—Section 4 also relates to repeals.

**The Indian Ports (Amendment) Act, 1925.**—Sub-section (2) of section 2 only relates to repeals.

**The Repealing and Amending Act, 1925.**—Vide notes under the Repealing and Amending Act, 1924.

**The Indian Succession Act, 1925.**—Section 392 and the Schedule IX relate to repeals.

**The Code of Criminal Procedure (Amendment) Act, 1926.**—Section 2 of the Code of Criminal Procedure (Amendment) Act, 1926 which repeals Section 170 of Act V of 1908 is repealed.

**The Guardian, and Wards (Amendment) Act, 1926.**—Sections 4 and 5 of the Act are also repealing sections.

**The Indian Naturalization Act, 1926.**—Section 15 of the Act is a Repealing section.

**The Steel Industry (Amendment) Act, 1926.**—This Act was enacted for the purpose of amending the Steel Industry (Protection) Act (XIV of 1924). But Act XIV of 1924 having been repealed by section 4 of Act III of 1927 there is no necessity of the Amending Act and as such it has now been repealed.

**The Indian Finance Act, 1926.**—All these sections are spent.

**The Legal Practitioners (Fees Act) 1926.**—Section 6 is only a repealing section.

**The Code of Civil Procedure (Second Amendment) Act, 1926.**—Section 3 is also a repealing section.

**The Negotiable Instruments (Interest) Act, 1926.**—Section 3 is also a repealing section.

**The Provincial Insolvency (Amendment) Act, 1926.**—By section 7 of the Act certain clauses of section 80 of the Provincial Insolvency Act has been omitted.

3. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;  
Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading practice or procedure, or existing usage, custom, privilege, restriction, exemption, office, or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any

jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

**Notes.**—"Where an Act is repealed, and the repealing enactment is repealed by another, which manifests no intention that the first shall continue repealed, the common law rule was that the repeal of the second Act revived the first, and revived it, too, *ab initio*, and not merely from the passing of the reviving Act. 2 Inst. 686; 4 Inst. 325; *Case of Bishops*, 12 Rep. 7; *Phillips v. Hopwood*, 10 B & C. 39; *Tattle v. Grimwood*, 3 Bing. 496; *Fuller v. Redman*, 29 L. J. Ch. 324; *Kemp v. Waddingham*, (1866) L. R. 1 Q. B. at p 358." *Maxwell's Interpretation of Statutes*, 6th Ed. p. 727. To remedy this in England Stat 52 & 53 Vict. c 63, s. 11 was passed. Where an order made under the Defence of the Realm Regulations has been revoked by a subsequent order, penalties for offences committed against the revoked order while it was still in force may be imposed after the date of the revocation, in as much as the Defence of the Realm (Consolidation) Regulations, 1914, makes the Interpretation Act, 1889, applicable to orders made under the Regulations. *Bennett v. Tatton*, (1918) W. N. 291; 118 L. T. 788. But in the absence of provisions to the contrary, the expired or the repealed Act is considered to have never been in existence except as to matters and transactions past and closed. *Per Lord Tutardon in Sustees v. Ellison*, 9 B. & C. 752; *Chuschill v. Crease*, 5 Bing. 177. But a repeal does not affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed. *Lewis v. Hughes*, (1916) 1 K. B. 813 C. A.

## THE SCHEDULE.

(See section 2.)

Year.	No.	Short title.	Extent of Repeal.
<i>Acts of the Governor General in Council.</i>			
1871	XXIII	The Pensions Act, 1871 ...	So much of the Schedule as relates to Bengal Regulation I of 1804. So much of the Schedule as relates to Acts— XV of 1852. XIX of 1853. II of 1855. XXV of 1861.
1872	I	The Indian Evidence Act, 1872.	
1874	XIV	The Scheduled Districts Act, 1874.	All entries in the Second Schedule except those relating to Act XXXVII of 1855 and Act X of 1857. So much of the First Schedule as relates to Acts— XXVI of 1836. XIX of 1841. XX of 1847. XXX of 1852. VI of 1864. XXI of 1865, V of 1866. XV of 1869. I of 1870.
1874	XV	The Laws Local Extent Act, 1874.	



Year.	No.	Short title.	Extent of Repeal.
1874	XV	The Laws Local Extent Act, 1874	So much of the Second Schedule as relates to Acts— IX of 1846. XXI of 1855. VIII of 1856. XXVIII of 1860, and to Madras Regulation V of 1816. In the Third Schedule, in the entry against Bombay Regulation II of 1827 the words "sections 47 to 54 (inclusive) and section 56 (pleaders)."
1882	XV	The Presidency Small Cause Courts Act, 1882	So much of the First Schedule as relates to Act X of 1877.
1891	XII	The Amending Act, 1891 ...	So much of the Second Schedule as relates to Acts— I of 1859. X of 1865. V of 1881. XIV of 1883.
1897	V	The Amending Act, 1897 ...	So much of the Third Schedule as relates to Acts— XXXIII of 1850, and XIX of 1871
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to Acts— XIX of 1841. XXVII of 1841. XX of 1847. XXVII of 1857. XXXIV of 1858. XXXV of 1858. XXXVI of 1858. XLVII of 1860. VI of 1864. XVII of 1864. XXI of 1865. I of 1870. II of 1877. I of 1884. XV of 1885. XVIII of 1886. VI of 1887. X of 1888. II of 1890. XIX of 1890. VII of 1894. III of 1896. VII of 1896.
1898	XIII	The Burma Laws Act, 1898	In sub-section (1) of section 1 the word "and" and sub-section (2) of the same section. So much of the First Schedule as relates to Acts— XX of 1847. XXX of 1852. XXXV of 1858.

Year.	No.	Short title.	Extent of Repal.
1898	XIII	The Burma Laws Act, 1898 — <i>contd.</i>	<p data-bbox="557 244 928 292">So much of the First Schedule as relates to Acts—</p> <p data-bbox="609 308 774 1289">           XXXVI of 1858.            XVI of 1863.            VI of 1864.            X of 1865.            XXI of 1865.            III of 1867.            V of 1869.            XV of 1869.            XX of 1869.            XXIII of 1870.            II of 1874.            V of 1875.            XI of 1876.            II of 1877.            XI of 1877.            XV of 1877.            I of 1879.            III of 1879.            XI of 1879.            XX of 1879.            XXI of 1879.            V of 1881.            VI of 1882.            XII of 1882.            XIV of 1882.            XVIII of 1882.            XX of 1882.            VI of 1884.            XVI of 1884.            II of 1886.            XII of 1886.            XIII of 1886.            XIII of 1887.            XX of 1887.            V of 1888.            VI of 1889.            XI of 1889.            XIII of 1889.            V of 1893.            IX of 1895.            XII of 1895.            XII of 1896.            IX of 1897.            XII of 1897.            II of 1898.         </p> <p data-bbox="567 1305 928 1353">So much of the Third Schedule as relates to—</p> <p data-bbox="622 1369 800 1465">           Act XVIII of 1882.            Act XXII of 1883.            Reg. V of 1887.            Reg. I of 1896.         </p>

Year.	No.	Short title.	Extent of Repeal.
1898	XIII	The Burma Laws Act, 1898 — <i>contd.</i>	So much of the Fourth Schedule as relates to— Act III of 1892. Act XI of 1894. Act XVIII of 1895. Reg. I of 1891. Reg. IV of 1894.
1899	XIII	The Glanders and Farcy Act, 1899.	In sub-section (1) of section 2 the words "either generally or in respect of any local area."
1901	XI	The Amending Act, 1901.	In the First Schedule—  In Part I— the entries relating to Madras Regulations VII of 1808 and V of 1816. In Part II— the entries relating to Acts— XXI of 1855. XXXVII of 1857. XXX of 1865.  In Part III— the entries relating to— Mad. Act 8 of 1865. " " 5 of 1866. " " 2 of 1871. " " 7 of 1871. " " 3 of 1886. " " 3 of 1890. " " 1 of 1892. " " 2 of 1898. " " 1 of 1899. " " 3 of 1900.
1900	X	The Indian Census Act, 1900.	The whole.
1903	I	The Amending Act, 1903.	In Part II of the First Schedule the entry relating to Act VII of 1876.
1910	XVI	The Indian Census Act, 1910.	The whole.
1911	II	The Indian Patents and Designs Act, 1911.	Section 80.
1911	VIII	The Indian Army Act, 1911.	Section 127 and Schedule.
1911	X	The Prevention of Seditious meetings Act, 1911.	Section 9.
1913	II	The Official Trustees Act, 1913	Section 33 and Schedule.
1913	III	The Administrator General's Act, 1913.	Section 60 and Schedule.
1914	III	The Indian Copyright Act, 1914.	Section 15 and the Second Schedule.
1914	IV	The Decentralization Act, 1914.	In Part I of the Schedule, the entries relating to— Act II of 1896. Act VI of 1900. Act VIII of 1901. Act XVI of 1903.
1914	VIII	The Indian Motor Vehicles Act, 1914.	Section 19 and Schedule.

Year.	No.	Short title.	Extent of Repeal.
1914	IX	The Local Authorities Loans Act, 1914.	Section 9 and Schedule II.
1914	X	The Repealing and Amending Act, 1914.	Sections 3 and 4.
1914	XVII	The Second Repealing and Amending Act, 1914.	The Second Schedule.
1915	I	The Emergency Legislation Continuance Act, 1915.	Section 3 and 4.
1915	VI	The Indian Patents and Designs (Temporary Rules) Act 1915.	The Second Schedule.
1915	XI	The Repealing and Amending Act, 1915.	The whole.
1915	XIV	The Enemy Trading Act, 1915.	Sections 3 and 4.
1916	III	The Foreigners' (Trial by Court-martial) Act, 1916.	The Second Schedule.
1916	IV	The Indian Tariff (Amendment) Act, 1916.	The whole.
1916	X	The Enemy Trading Act, 1916.	Section 5 and Schedule II.
1916	XI	The Import and Export of Goods Act, 1916.	The whole.
1916	XIV	The Indian Bills of Exchange Act, 1916.	The whole.
1917	I	The Inland Steam-Vessels Act, 1917.	The whole.
1917	V	The Destruction of Records Act, 1917.	Section 75 and Schedule II.
1917	IX	The Indian Bills of Exchange (Amendment) Act, 1917.	Section 6 and the Schedule.
1917	XXII	The Gold (Import) Act, 1917.	The whole.
1917	XXIV	The Repealing and Amending Act, 1917.	The whole.
1918	XI	The Indian Army (Amendment) Act, 1918.	Sections 3 and 4.
1918	XIV	The Gold Coinage Act, 1918.	The Second Schedule.
1918	XV	The Enemy Trading Orders (Validation) Act, 1918.	Section 26 and the Schedule.
1918	XVII	The Indian Non-ferrous Metal Industry Act, 1918.	The whole.
1919	III	The Motor Spirit (Duties) Amendment Act, 1919.	The whole.
1919	XII	The Poisons Act, 1919.	The whole.
1919	XVIII	The Repealing and Amending Act, 1919.	Section 10.
1920	IV	The Indian Census Act, 1920.	Sections 3 and 4 and the Second Schedule.
1920	V	The Provincial Insolvency Act, 1920.	The whole.
			In section 69, the words "by the Court" where they occur for the Second time.
			In Schedule I, the entry relating to section 69.
			Sub-section (1) of section 83 and Schedule III.

Year.	No.	Short title.	Extent of Repeal.
1920	X	The Indian Securities Act, 1920	Section 25.
1920	XX	The Indian Army (Suspension of Sentences) Act, 1920.	Section 10.
1920	XXVIII	The Indian Patents and Designs (Temporary Rules) Amendment Act, 1920.	The whole.
1920	XXX	The Rouble Note Act, 1920.	The whole.
1920	XXXI	The Repealing and Amending Act, 1920.	Sections 3 and 4. So much of the First Schedule as relates to Act XVII of 1914. The Second Schedule.
1920	XXXVI	The Indian Coinage (Amendment) Act, 1920.	The whole.
1920	XXXVII	The Indian Army (Amendment) Act, 1920.	Section 10.
1920	XXXVIII	The Devolution Act 1920.	In the First Schedule, the entries relating to.— Act XIII of 1879. " XIV of 1891. " II of 1896. " VI of 1900. " VIII of 1901. " XVI of 1903. Regulation V of 1892. Regulation I of 1896. Bengal Act III of 1899. U. P. Act II of 1901. U. P. Act III of 1906.
1920	XLVII	The Imperial Bank of India Act, 1920.	Section 3 and the Second Schedule.
1920	XLIX	The Auxiliary Force Act, 1920.	Section 34 and Schedule III. Section 36 and Schedule II.
<i>Acts of the Indian Legislature.</i>			
1921	IV	The Import and Export of Goods (Amendment) Act, 1921.	The whole.
1921	XI	The Indian Works of Defence (Amendment) Act, 1921.	Section 4.
1921	XVI	The Indian Penal Code (Amendment) Act, 1921.	Section 4.
1921	XVII	The Cattle-trespass (Amendment) Act, 1921.	Section 3.
1922	II	The Indian Factories (Amendment) Act, 1922.	Section 33 and Schedule II. Sub-section (3) of section 14.
1922	IV	The Special Laws Repeal Act, 1922.	The whole.
1922	V	The Indian Criminal Law Amendment Repealing Act, 1922.	The whole.

Year.	No.	Short title.	Extent of Repeal.
1922	VII	The Indian Emigration Act, 1922.	Section 33.
1922	XI	The Indian Income-tax Act 1922.	Section 68 and the Schedule.
1922	XII	The Indian Finance Act, 1922.	Sub-section (3) of section 1. Sub-section (2) of section 3 Sections 4, 7 and 8. Schedules II and III.
1923	IV	The Indian Mines Act, 1923.	Section 50 and Schedule.
1923	V	The Indian Boilers Act, 1923.	Section 35 and Schedule
1923	VI	The Cantonments (House Accommodation) Act, 1923.	Section 39 and Schedule.
1923	XI	The Repealing and Amending Act, 1923.	Section 3 and 4 and the Second Schedule.
1923	XII	The Criminal Law Amendment Act, 1923.	Sections 4, 8, 10, 20 and 26.
1923	XVIII	The Code of Criminal Procedure (Amendment) Act, 1923.	Sections 129 and 163.
1923	XIX	The Indian Official Secrets Act, 1923.	Section 16.
1923	XXI	The Indian Merchant Shipping Act, 1923.	Section 296 and Schedule V.
1923	XXVIII	The Indigo Cess (Repealing) Act, 1923.	The whole.
1923	XXXVII	The Code of Criminal Procedure (Second Amendment) Act, 1923.	Section 6.
1924	II	The Cantonments Act, 1924.	Section 292 and Schedule VI.
1924	IV	The Central Board of Revenue Act, 1924.	In the Schedule, the entry relating to Act II of 1896.
1924	VI	The Criminal Tribes Act, 1924	Section 30 and the Second Schedule.
1924	VII	The Repealing and Amending Act, 1924.	Sections 3, 4 and the Second Schedule.
1924	VIII	The Sea-Customs (Amendment) Act, 1924.	The whole.
1925	III	The Workmen's Breach of Contract (Repealing) Act, 1925.	The whole.
1925	IV	The Indian Soldiers (Litigation) Act, 1925.	Section 15.
1925	XIII	The Indian Finance Act, 1925.	Sub-section (3) of section 1. Sections 2, 4, 6 and 7. Schedules II and III.
1925	XIV	The Indian Tariff (Amendment) Act, 1925.	In the Schedule, entries Nos. 12, 13, 14 and 23.
1925	XIX	The Provident Funds Act, 1925.	Section 10 and Schedule.
1925	XXVII	The Opium (Amendment) Act, 1925.	Section 4.
1925	XXXVI	The Indian Ports (Amendment) Act, 1925.	Sub-section (2) of section 2.
1925	XXXVII	The Repealing and Amending Act, 1925.	Sections 3 and 4 and the Second Schedule.

Year.	No.	Short title.	Extent of Repeal.
1925	XXXIX	The Indian Succession Act, 1925.	Section 392 and Schedule IX.
1926	II	The Code of Criminal Procedure (Amendment) Act 1926.	Section 2.
1926	IV	The Guardians and Wards (Amendment) Act, 1926.	Sections 4 and 5.
1926	VII	The Indian Naturalization Act, 1926.	Section 15 and Schedule.
1926	VIII	The Steel Industry (Amendment) Act, 1926.	The whole.
1926	XIX	The Indian Finance Act, 1926.	Sub-section (3) of section 1. Sections 2 and 4. Section 3. Section 5.
1926	XXI	The Legal Practitioners (Fees) Act, 1926.	Section 6
1926	XXII	The Code of Civil Procedure (Second Amendment) Act, 1926	Section 3.
1926	XXX	The Negotiable Instruments (Interest) Act, 1926.	Section 3.
1926	XXXIX	The Provincial Insolvency (Amendment) Act, 1926.	Section 7.
1927	III	The Steel Industry (Protection) Act, 1927.	Section 4.
1927	X	The Repealing and Amending Act, 1927.	Sections 3 and 4 and the Second Schedule.

*Acts made by the Governor General under section 67B  
of the Government of India Act.*

1923	...	The Indian Finance Act, 1923.	Sub-section (3) of section 1. Sections 4 and 6. Section 5. Schedules II and III.
1924	...	The Indian Finance Act, 1924.	Sub-section (3) of section 1. Sections 4, 5 and 6. Schedules II and III.

*Regulations.*

1877	III	The Ajmere Laws Regulation, 1877.	Section 2 and Schedule I.
1887	X	The Upper Burma Stamps and Limitation Regulation, 1887.	In sub-section (2) section 1, the word "and"; and sub-section (3) of the same section.
1889	III	The Upper Burma Land and Revenue Regulation, 1889	Section 2.
1893	IX	The Ajmere Amending Regulation, 1893.	In sub-section (2) of section 1, the word "and"; and sub-section (3) of the same section.

Year.	No.	Short title.	Extent of Repeal.
1895	IV	The Ajmere Village Sanitation Regulation, 1895.	In sub-section (2) of section 1, the word "and"; and sub-section (3) of the same section.
1896	V	The Chin Hills Regulation, 1896.	So much of the Schedule as relates to Regulation V of 1895.
1898	III	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1898.	In sub-section (2) of section 1 the word "and"; and sub-section (3) of the same section. Section 4.
1900	II	The Hazara (Upper Tana-wal) Regulation, 1900.	In sub-section (1) of section 1, the word "and"; and sub-section (2) of the same section.
1901	IV	The Frontier Murderous Outrages Regulation, 1901.	In sub-section (1) of section 1, the word "and"; and sub-section (2) of the same section. Section 16.
1901	VII	The North-West Frontier Province Law and Justice Regulation, 1901.	Sub-section (3) of section 1. Section 5 and Schedule III.
1903	II	The Peshawar Canals (Amendment) Regulation, 1903.	The whole.
1908	III	The Sonthal Parganas Settlement (Amendment) Regulation, 1908.	Sections 3 and 6.
1909	II	The North-West Frontier Province Law and Justice (Amendment) Regulation, 1909.	The whole.
1910	III	The Aden Arms (Sea-traffic) Regulation, 1910.	Section 14.
1910	IV	The Sonthal Parganas Rural Police Regulation, 1910.	Section 26.
1911	III	The Hazara Forest Regulation, 1911.	Section 58.
1911	IV	The Coorg Land and Revenue (Amendment) Regulation, 1911.	Section 3.
1913	II	The British Baluchistan Laws Regulation, 1913.	Section 6 and Schedule II. So much of Schedule I as relates to—  Act XXX of 1852. Act X of 1865. Act XXI of 1865. Act XX of 1869. Act II of 1874. Act XI of 1879. Act V of 1881. Act VI of 1882. Act XV of 1889. Act XII of 1895. Act IV of 1900. Act VII of 1901. Act I of 1904. Act III of 1907.



Year.	No.	Short title.	Extent of Repeal.
1913	III	The Angul Laws Regulation, 1913.	Section 75. In the Schedule, the entries relating to—  Bengal Regulation X of 1804. Act XI of 1857. Act II of 1874. Act V of 1881. Act IX of 1897. Act II of 1910.
1914	II	The Ajmere Repealing and Amending Regulation, 1914	In section 1, the words "Repealing and." Sub-section (2) of section 2. Part II of the Schedule.
1915	I	The Excise Regulation, 1915	Section 70 and Schedule.
1916	I	The Arakan Hill District Laws Regulation, 1916.	So much of Schedule I as relates to— Act XXX of 1852. Act XII of 1882. Act VI of 1884. Act II of 1886. Act XV of 1889. Act XII of 1896. Act II of 1910. Section 15 and Schedule II.
1920	III	The Coorg Noxious Weeds (Repealing) Regulation, 1920.	The whole.
1922	II	The Kachin Hill Tribes (Amendment) Regulation, 1922.	The whole.
1922	III	The Chin Hills (Amendment) Regulation, 1922.	The whole.
1923	I	The Arakan Hill District Laws (Amendment) Regulation, 1923.	Sub-section (2) of Section 1. Section 3.
1923	III	The North-West Frontier Province Law and Justice (Amendment) Regulation, 1923.	The whole.
1924	I	The North-West Frontier Pre-emption (Repealing) Regulation, 1924.	The whole.
1925	I	The Burma (Frontier Districts) Criminal Justice Regulation, 1925.	Section 4.
1926	I	The Laccadive Islands and Minicoy (Amendment) Regulation, 1926.	Sections 3 and 5.
1926	IV	The North-West Frontier Province Law and Justice (Amendment) Regulation, 1926.	Sub-section (1) of section 5.
1926	IX	The Ajmer Courts Regulation, 1926.	Section 30 and Schedule.

## ACT NO. XIII OF 1927.

[ PASSED BY THE INDIAN LEGISLATURE. ]

(Received the assent of the Governor General on the 9th September, 1927.)

### An Act to amend the Indian Bar Councils Act, 1926, for certain purposes.

WHEREAS it is expedient to amend the Indian Bar Councils Act, 1926,\* for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. The Act may be called the Indian Bar Councils (Amendment) Act, 1927.

**Notes.**—"The select committee on the Indian Bar Councils Bill (which was passed as Act XXXVIII of 1926) inserted in clause 8 of that Bill the following provisions to regulate seniority and pre-audience among advocates:—

(1) Entries in the roll shall be made in the order of seniority and the seniority of each advocate shall be determined by the date of his admission to be an advocate or, in the case of a person referred to in clause (a) of sub-section (2), by the date on which he was admitted to be an advocate, vakil or pleader, as the case may be, of the High Court.

(2) Subject to any special orders which the High Court may think fit to make in individual cases, the respective rights of pre-audience of advocates of the High Court shall be determined by seniority. Provided that the Advocate General shall have pre-audience over all other advocates, and King's Counsel shall have pre-audience over all advocates except the Advocate General. These provisions were omitted from the Bill as finally enacted on the understanding that they would be circulated for opinion. This has now been done. The opinions received disclosed a lack of unanimity. On the whole, however, the majority of the High Courts prefer that, subject to the preservation of right existing at the time that the Bar Council comes into force, seniority and pre-audience should be regulated in accordance with the recommendations in paragraphs 18 and 21 of the Indian Bar Committee's report which may be summarised as follows:—

"Both on the appellate and original sides, advocates who are barristers should take precedence *inter se* according to the dates of call to the Bar, advocates who are not barristers according to the dates on which they become entitled to practise in a High Court, and a member of the former class should take precedence over another advocate only if he was called to the Bar before the other become entitled to practise in a High Court. An advocate of one High Court enrolling in another should take precedence from the date he was first entitled to practise in a High Court, and a barrister who was only called to the Bar after admission to practise in a High Court, should take precedence from the date of admission to practise in a High Court.

"The Bill gives effect to these recommendations. The opportunity has been taken to make a small amendment in sub-section (4) of section 9 of the Act of 1926, in consequence of criticism during the debate in the Legislative Assembly on the 2nd September, 1926."—*Statement of Objects and Reasons.*

2. In section 8 of the Indian Bar Councils Act, 1926,\* (hereinafter referred to as the said Act), sub-sections (3), (4) and (5) shall be renumbered as sub-sections (5), (6) and (7), respectively, and after sub-section (2) the following

Amendment of section 8,  
Act XXXVIII of 1926.

sub-sections shall be inserted, namely:—

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\* XXXVIII of 1926.

"(3) Entries in the roll shall be made in the order of seniority, and such seniority shall be determined as follows, namely :—

- (a) all such persons as are referred to in clause (a) of sub-section (2) shall be entered first in the order in which they were respectively entitled to seniority *inter se* immediately before the date on which this section comes into force in respect of the High Court ; and
- (b) the seniority of any other person admitted to be an advocate of the High Court under this Act after that date shall be determined by the date of his admission or, if he is a barrister, by the date of his admission or the date on which he was called to the Bar, whichever date is earlier :

Provided that, for the purposes of clause (b), the seniority of a person who before his admission to be an advocate was entitled as of right to practise in another High Court shall be determined by the date on which he became so entitled.

(4) The respective rights of pre-audience of advocates of the High Court shall be determined by seniority :

Provided that the Advocate General shall have pre-audience over all other advocates, and King's Counsel shall have pre-audience over all advocates except the Advocate General "

**Notes.**—This section makes provision for the determination of questions of seniority among advocates. The entries in the roll shall be made in the order of seniority and such seniority shall be determined by rules framed in clauses (a) and (b). The proviso to sub-section (4) gives to the Advocate General the right of pre-audience over all other advocates and the King's Counsel has got the right of pre-audience over all other advocates except the Advocate General.

**3. In sub-section (4) of section 9 of the said Act, after the words "any such application" the words "or to prescribe the conditions under which such persons shall be entitled to practise or plead" shall be inserted.**

Amendment of section 9,  
Act XXXVIII of 1926

**Notes.**—This amendment leaves unaffected the powers of the High Courts of Calcutta and Bombay not only to prescribe the qualifications to be possessed by the persons applying to practise in those High Courts respectively in the exercise of their original jurisdiction or the powers of the said High Courts to grant or refuse, as they think fit, any such application, but also expressly recognizes their right to prescribe the conditions under which such persons shall be entitled to practise or plead. This amendment would virtually perpetuate the system of dual agency that now obtains in the said two High Courts as far as original-side work is concerned.—*A. I. R. 1927 Journal p. 71,*

## ACT NO. XIV OF 1927.

[ PASSED BY THE INDIAN LEGISLATURE. ]

(Received the assent of the Governor General on the 9th September, 1927.)

### An Act further to amend the Indian Merchant Shipping Act, 1923.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923,\* for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Merchant Shipping (Amendment) Act, 1927.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

**Notes.**—This amending Act is intended to provide for certain matters relating to pilgrim traffic. Shipping Companies are put under certain restrictions in the matter of the conveyance of pilgrims and provision is made to secure reasonable comfort and convenience to pilgrims. Provision is also made for the appointment of pilgrim officers for the protection of pilgrims. This Act is apparently intended to give adequate protective facilities to *Hoj* pilgrims.—*All India Reporter of 1927, Journal p 71.*

Insertion of new sections  
209B, 209C and 209D in  
Act XXI of 1923.

2. After section 209A of the Indian Merchant Shipping Act, 1923\* (hereinafter referred to as the said Act), the following sections shall be inserted, namely :—

“209B. (1) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in British India shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or permitting any person to sell a passage ticket to any pilgrim for conveyance by such ship, supply to the prescribed officer (hereinafter referred to as the Pilgrim Officer) at the port or place from which the ship is to commence the voyage, and at each port or place in British India at which it is to touch for the purpose of embarking pilgrims, full particulars as to the class, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of ticket, the date on which the ship is to sail from that port or place, the ports, if any, at which it is to touch, the place of its destination, and the probable date of its arrival thereat.

(2) The master, owner or agent shall apply to the Pilgrim Officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (1) as that officer may in writing demand from him.

(3) Within such time as may be prescribed before the date of the sailing of any such ship from any port or place in British India, the master, owner or agent of the ship shall advertise at such port or place in such manner as may be prescribed—

(a) the place of destination of the ship,

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\* XXI of 1923.

- (b) the proposed date of sailing from that port or place which shall be the date communicated to the Pilgrim Officer under sub-section (1), and
- (c) the price of each class of passage tickets, which shall not be in excess of the price communicated to the Pilgrim Officer under sub-section (1).
- (4) Any master, owner or agent who—
  - (a) without reasonable cause, the burden of proving which shall lie upon him, fails or refuses to supply any particulars or information which he is by or under this section required to supply or supplies false particulars or information, or
  - (b) advertises any ship for the conveyance of pilgrims, or offers to convey pilgrims by any ship, or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (1) and in accordance with the provisions of that sub-section, or
  - (c) advertises a date of sailing from any port or place other than the date communicated to the Pilgrim Officer at that port or place under sub-section (1), or advertises a price for passage tickets at that port or place in excess of the price so communicated, or
  - (d) offers to convey pilgrims by any ship from any port or place in British India or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having made advertisement, as required by sub-section (3), of the matters specified in that sub-section, or
  - (e) sells or permits any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the Pilgrim Officer under sub-section (1),

shall be punishable with fine which may extend to two thousand rupees.

**Sub-section (1).—**"We have considered very carefully the advisability of providing that the price of tickets should in no case be reduced below the price communicated to the Pilgrim Officer under sub-section (1) of the proposed new section 209 B, which under sub-section (3) of the same section as originally framed must be reproduced in the advertisement. We have eventually decided that it would be not only unfair to the ship-owner to restrict in this manner his right of bargaining but would also be detrimental to the interest of pilgrims, many of whom may in the case of a half filled ship be able to secure accommodation at reduced rates. We think that the only objection advanced to the practice of reducing fares, namely, that pilgrims may hang back in the hope of a reduction, is met by the provision which the Bill makes for ensuring that the ship shall start on a fixed date. We have accordingly inserted in sub-section (1) of the proposed new section 209 B the word maximum before the word 'price' and have provided that the advertised price shall not be in excess of the price notified to the Pilgrim Officer. At the same time the Bill as originally drafted provides no penalty for the sale of tickets at a reduced price, and sub-section (4) of the proposed new section therefore requires no alteration other than an amendment consequential upon that made in sub-section (3).

"We have rejected a proposal that the period which should elapse between the advertised date of sailing and the departure of a ship should be incorporated in the Act itself as we consider that this must be left to rules, as already provided in the Bill; and we have rejected a suggestion that power should be given to shipping companies to advertise a general programme some time before the opening of the pilgrim season as we think that such advertisements might bring pilgrims to the ports an unnecessarily long time before the dates eventually fixed for departure of those ships or in numbers for which accommodation might not be immediately available.—*Report of the Select-Committee.*

**209C.** (1) If the pilgrim ship fails to proceed from any port or place on the date advertised under sub-section (3) of section 209B as the date of sailing therefrom, the master, owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of one rupee for each completed day during which the sailing of the ship is delayed after that date :

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, and the burden of proving such cause shall lie on such master, owner or agent :

Provided, further, that, where compensation has been paid or has become payable to any pilgrim in respect of delay in the sailing of the ship from any port or place and the sailing of the ship from any other port or place is thereafter delayed beyond the date advertised in that behalf, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(2) In the event of such failure, the master, owner or agent shall be bound forthwith to inform the Pilgrim Officer at the port or place at which the delay occurs of the number of passage tickets of each class which have been issued for the voyage on or before the advertised date of sailing.

(3) Any sum payable as compensation under sub-section (1) shall be paid on behalf of the pilgrims entitled thereto to the Pilgrim Officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention :

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided :

Provided, further, that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Local Government may, by general or special order, designate in this behalf.

(4) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (3) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the Pilgrim Officer notice of his objection, together with a statement of the grounds thereof, and the Pilgrim Officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in deposit under sub-section (3), or refer the objection for decision to a Presidency Magistrate or a Magistrate of the first class exercising jurisdiction in the port or place at which the ship is delayed ; the decision of the Magistrate on such reference shall be final, and there shall be refunded to the master, owner or agent any amount allowed to him by such decision.

(5) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under sub-section (3) of section 209B as the date of

sailing therefrom, the Pilgrim Officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port-clearance to ships thereat, and such officer shall refuse port-clearance to the pilgrim ship until the master, owner or agent produces to him a certificate of the Pilgrim Officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid.

**Notes.**—"Under sub-section (1) of the proposed new sub-section 209, (c) a ship which, having been delayed for several days in its departure from the port from which it commences its voyage, is delayed in its departure from its next port of call by a proportionate period would be liable to pay compensation twice over to pilgrims who were embarked at the port of departure, for what is really only a single period of delay. This is clearly unreasonable and we have added a proviso to the sub-section to meet this particular case. We consider it inequitable to require, under sub-section (4) of the proposed new section 209c the master, owner or agent of the pilgrim ship to bear the costs of a reference if he is unsuccessful and at the same time not to give him any right to recover costs if he succeeds. We have accordingly deleted from this sub-section all reference to costs." *Report of the Select Committee.*

**209D.** Notwithstanding anything contained in section 209B or section 209C, where any ship which has been advertised under sub-section (3) of section 209B for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised date of sailing the owner or agent may, with the permission in writing of the Pilgrim Officer, substitute for it any other ship which is of the same class and is capable of carrying not less than the same number of pilgrims of each class, and on such permission being given the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship."

**Notes.**—"We agree with a representation made to us that, in the event of inability to despatch a ship on the advertised date of sailing, the owner or agent should be entitled, with the permission of the Pilgrim Officer, to substitute another similar ship of not less carrying capacity than the ship advertised. A provision of this kind will not only be beneficial to the ship owner, but will obviously tend to further the purpose of the Bill by obviating inconvenience to pilgrims."—*Report of the Select Committee.*

**3.** In sub section (1) of section 213 of the said Act, after clause 'gg' the following clause shall be inserted namely :—

"ggg) the manner in which the proposed date of sailing shall be advertised under section 209B; the appointment of Pilgrim Officers for the purposes of that section and sections 209C and 209D; the manner in which payment shall be made under section 209C to pilgrims and to the Pilgrim Officer; and the procedure to be followed by masters, owners or agents and by Pilgrim Officers and Magistrates in proceedings under that section ;".

**4.** Sections 11, 12, 12A and 12B of the Protection of Pilgrims Act, 1887,\* and sections 11 and 12 of the Protection of Muhammadan Pilgrims Act, 1896,† are hereby repealed.

**Notes.**—Those sections are no longer necessary and as such they are repealed.

\* Bom. Act II of 1887.

† Ben. Act I of 1896.

ACT NO. XV OF 1927.

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor General on the 9th September, 1927.)

**An Act further to amend the Indian Divorce Act for a certain purpose.**

WHEREAS it is expedient further to amend the Indian Divorce Act\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

**Short title.**

**1. This Act may be called the Indian Divorce (Amendment) Act, 1927,**

**Insertion of new section  
17A in Act IV of 1869.**

**2. After section 17 of the Indian Divorce Act,\* the following section shall be inserted, namely:—**

**Appointment of officer to  
exercise duties of King's  
Proctor,**

Appointment of officer to exercise duties of King's Proctor.

jurisdiction of the High Court for which he is appointed, have the like right of showing cause why a decree for the dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor, and the Governor General in Council may make rules regulating the manner in which the right shall be exercised and all matters incidental to, or consequential on, such exercise,"

**Notes.**—Under Sub-section (4) of section 1 of the Indian and Colonial Divorce Jurisdiction Act, 1926 (16 & 17 Geo. 5, ch. 40), proceedings before a High Court in India, in exercise of the jurisdiction conferred by that Act, are to be conducted in accordance with rules made by the Secretary of State in Council for India with the concurrence of the Lord Chancellor. These rules are required to provide *inter alia* for conferring on such officials as may be appointed for the purpose with the jurisdiction of each High Court the like right of showing cause why a decree *nisi* should not be made absolute as is exercisable in England by the King's Proctor under sections 181 and 182 of the Supreme Court of Judicature (Consolidation) Act, 1925 (15 and 16 Geo. 5 ch 49). These provisions apply in cases where the parties concerned are British subjects domiciled in England or in Scotland. The Bill proposes to make provision in the Indian Divorce Act for the appointment of an official to perform similar functions in respect of persons domiciled in India.—*Statement of Objects and Reasons.*

\* IV of 1869.



# THE INDIAN FOREST ACT, 1927.

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## ACT XVI. OF 1927.

[ PASSED BY THE INDIAN LEGISLATURE. ]

*Received the assent of the Governor General on the 21st September, 1927.*

**An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.**

Whereas it is expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce ; It is hereby enacted as follows :—

**Notes.**—"The general law relating to forests in British India is as contained in the Indian Forest Act, 1878. This Act is also a consolidating Act and as Act X of 1897 has been passed after the Act of 1878, in this Act the language of the Act of 1878 has been shortened by taking advantage of Act X of 1897. In this Act the ambiguous language of the second paragraph of section 42 of Act VII of 1878 has been altered in clause 43 (2) so as to bring it into conformity with what appears to have been the original intention of the law."—*Vide Statement of Objects and Reasons.*

## CHAPTER I.

## PRELIMINARY.

Short title and extent.

1. (1) This Act may be called the Indian Forest Act, 1927.

(2) It extends to Bombay, Bengal, Bihar and Orissa, the United Provinces, the Punjab, the Central Provinces and the North-West Frontier Province (except the District of Hazara).

(3) The Local Government of any other province may, by notification in the local official Gazette, extend this Act to the whole or any specified part of the province.

**Notes.**—The only other point which calls for further notice is the extent clause. The original Act extended to the Province of Assam, but by Regulation VII of 1891, the Indian Forest Act, 1878 was repealed as far as it relates to Assam. This section accordingly omits Assam from the extent clause.—*Vide Statement of Objects and Reasons*

**History of the First Law in India.**—The first forest legislation in India was Act VII of 1865. That Act was framed upon the basis that the Government might make into a "Government Forest" any jungle land it pleased provided that its selection did not abridge or affect any existing rights of individuals or communities. Consequently, if in any instance it was found necessary for forest purposes to acquire any private land or rights, the Government was left to do so by means of the ordinary law for the acquisition of land for public purposes. Act VII of 1865 was almost immediately found to be more or less unsuitable for the purposes in view. Neither the Act was extended to Bombay and Madras. That Act drew no distinction between forests which required to be closely reserved, even at the cost of more or less interference with private rights, and those which merely needed general control to prevent improvident working. It provided no procedure for enquiry into and settling the rights which it so vaguely saved and gave no powers for regulating the exercise of such rights without appropriating them. It obliged the Government either to take entirely or let alone entirely. On control over private forests in the general interest of the community, it was absolutely silent. For duties on timber, even those actually levied, it gave no authority.—*Vide Proceedings in Council in the Gazette of India of 1878, Sup. pp. 437.* The insufficiency of Act VII of 1865 was long apparent. The want of legal powers to control timber in transit, to require it to be covered by a pass, and to levy duty on foreign timber, caused the loss of several lakhs of rupees annually. So also a regular machinery for enquiring into and adjudicating upon private rights claimed in forests and reserves was found equally advantageous to the Government and the people. To give effect to these provisions, a Bill was introduced in 1868 and more than one draft was circulated to various Local Governments. In 1878 the Governor General in Council passed Act VII of 1878. That Act followed in a great measure the Bill for Burma and found place in the Statute Book as the Burma Forest Act (XIX of 1881).

Interpretation clause.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids

(2) "Forest-officer" means any person whom the Governor General in Council, or the Local Government or any officer empowered by the Governor General in Council or the Local Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer;

(3) "forest-offence" means an offence punishable under this Act or under any rule made thereunder ;

(4) "forest-produce" includes—

(a) the following whether found in, or brought from, a forest or not, that is to say :—

timber, charcoal, caoutchouc, catechu, wood oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds and myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say :—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss) and all parts or produce of such plants.

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey, and wax, and all other parts or produce of animals, and

(iv) peat, surface soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries) ;

(5) "river" includes any stream, canal, creek or other channels, natural or artificial ;

(6) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not ; and

(7) "tree" includes palms, bamboos, stumps, brush-wood and canes.

**Notes.**—"We have improved the definition of 'Forest Officers' and 'Forest produce', and have assimilated that of 'Cattle' to the definition of the Cattle Trespass Act."—*Statement of Objects and Reasons of Act VII of 1878.* A Forest officer is a public servant. 10 B. 124. A forest settlement officer is a Civil Court, 17 M. 193. A military officer invested with certain powers under s. 67 of the Forest Act and appointed as a Forest officer is incompetent to act beyond the scope of his powers and neither the Punjab Government Notification No. 460 F dated the 6th November 1878, nor s. 237 of the Contract Act will be applicable to this case. 16 P. R. 1899.

## CHAPTER II.

### OF RESERVED FORESTS

**3. The Local Government may constitute any forest-land or waste-land** which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

**Reserved Forests.**—Where the land is a part of the permanently settled estate it is a private property and not the Government property within the meaning of the Forest Act and therefore cannot legally be subject of reservation under Chapter II of the Act. *Secretary of State v. Abdul Rahaman*, 1923, Cal. 377.

**Notes.**—This chapter lays down provisions for ascertaining, securing and commuting the rights of private persons in any forest which is deemed necessary to reserve.—

*Statement of Objects and Reasons of Act VII of 1878.* This section does not make the exercise of the power conferred dependent on the opinion or decision of the Local Government but upon a question of fact. If the land actually fulfils that condition the Government can exercise the powers but not otherwise. 29 B. 480.

**4.** (1) Whenever it has been decided to constitute any land a reserved forest, the Local Government shall issue a notification in the local official Gazette—

(a) declaring that it has been decided to constitute such land a reserved forest ;

(b) specifying, as nearly as possible, the situation and limits of such land, and

(c) appointing an officer (hereinafter called "the Forest Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest produce, and to deal with the same as provided in this Chapter.

*Explanation.*—For the purpose of clause (b), it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

(2) The officer appointed under clause (c) of sub-section (1) shall ordinarily be a person not holding any forest-office except that of Forest Settlement-officer.

(3) Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest office except as aforesaid, to perform the duties of a Forest Settlement-officer under this Act.

**Notes.**—"In order to avoid the delay and expense of an elaborate preliminary demarcation, which was objected to in many quarters, we have provided (section 4) that the notification of the proposal to constitute a Reserve Forest may be in general terms but have indicated more clearly (section 12) [now see section 20] that the final demarcation must be precise. We have made more clear (section 4) the intention that the Forest Settlement Officer should not, except under very exceptional circumstances, be a Forest Officer. But, in deference to representations from British Burma and North-Western Provinces, we have provided an option of entrusting the forest settlement to two or three officers instead of one."—*Statement of Objects and Reasons to Act VII of 1878.* If the land actually fulfils the condition laid down in section 3 the Government can exercise the powers but not otherwise. The test is, not what appears to the Local Government but what is the actual fact and as the enabling section gives the Local Government no power to decide that fact, it can only be decided by recourse to the Courts which have authority finally to decide on question of law and fact wherever their jurisdiction is not expressly barred by the Legislation. The power in section 4 of the Indian Forest Act (VII of 1878), to appoint an officer to enquire and determine as to rights, is limited to land which it is proposed to constitute reserved forest and 'to constitute reserve forest' is a phrase defined in section 3. And under that definition, the constitution of a reserved forest connotes as the object forest or waste land only. The specified character of the land is an essential part of the Act defined. According to the definition the phrase "to constitute a reserved forest" means to convert land by notification from forest or waste. The land, therefore, to which a proposal under section 4 relates, must be forest or waste land, and it is only in respect of such land that an officer appointed has power to enquire and determine. *Balvant v. Ram Chandra*, 29 B. 480=7 Bom. L. R. 496.

**5.** After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of Government or some person in whom such right was vested when the notification was issued ; and no fresh clearings for cultivation or for any other

Bar of accrual of forest-rights.

purpose shall be made in such land except in accordance with such rules as may be made by the Local Government in this behalf.

**Notes.**—This section is slightly different from section 5 of Act VII of 1878. In the latter section the words used were: "During the interval between the publication of such notification and the date fixed by the notification under section 19, no right, etc." Section 19 of the old Act corresponds to section 20 of this Act. No prosecution lies under this Act where a person cuts trees from a plot marked as waste number. Rat. Un. Cr. C. 873=Cr. Reg. 49 of 1896.

**6.** When a notification has been issued under section 4, the Forest Settlement-officer shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised therein, a proclamation—

- (a) specifying, as nearly as possible, the situation and limits of the proposed forest ;
- (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and
- (c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

**Object.**—"In order to meet the case of the wild tribes and illiterate persons who will in many instances be the possessors of rights over forest lands, we have allowed in section 6 claims to be preferred orally to the Forest Settlement Officer and made it obligatory on him to take such statement down in writing."—*Statement of Objects and Reasons of Act VII of 1878*. This section refers to land which is of the description mentioned in section 3, that is proceedings taken in respect of such land. 1923 Cal. 377. The accused grazed the cattle in certain waste land which was not reserved within section 20 of the Forest Act, in contravention of a notification by Government prohibiting the public from grazing cattle there, as it was intended to constitute the lands as forest reserve. The grass in the land was found to have been in the possession of the Government who were in the habit of selling the grass grown on the lands at fixed prices. It was also found that the accused knew that by so grazing they would cause wrongful loss to Government. Held that the accused was guilty of an offence under section 426 of the Penal Code. *In re Gurram Siddugadu*, 1 Weir. 492.

**7.** The Forest Settlement-officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

**Notes.**—"With the same view we have required (section 7) the Forest Settlement Officer to enquire into the existence of rights by searching the Government records and taking evidence, even though the people themselves, through ignorance or neglect, may not appear to claim them."—*Report of the Select Committee*. This section refers to land which is of the description mentioned in section 3, that is the proceeding taken in respect of such land. *Secretary of State v. Abdul Rahaman*, 1923, Cal. 377.

**Powers of Forest Settlement-officer.**

**8.** For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say :—

- (a) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same ; and

## (b) the powers of a Civil Court in the trial of suits.

**Notes.**—These powers are given to Forest Settlement Officer for the purpose of enquiry. Similar powers are given by section 4 of the Land Acquisition Act, see also 29 B. 280 ; 30 C. 36 ; 23 Ind. Cas. 765 = 38 B. 565. A notification closing a forest for an indefinite period is not bad for indefiniteness, when it is not known at that time, how long it may be necessary to close the forest, *Bates v. Empress*, 19 P. R. 1880 Cr.

**9.** Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless, before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

**Notes.**—"We have also provided (section 9) for the hearing of claims not preferred within the time prescribed by section 6, whenever claimants can show sufficient cause for their delay."—*Report of the Select Committee*. This section refers to land which is of the description mentioned in section 3, that is the proceeding taken in respect of such land. *Secretary of State v. Abdul Rahaman*, 1923 Cal. 377.

**10.** (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion, the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest Settlement-officer may arrange for its exercise—

(a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation therein under such conditions as he may prescribe.

(4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the Local Government.

(5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government.

N. B.—This corresponds to section 9A of the old Act.

**Notes.**—"In section 10 we have made clear the alternative courses which may be pursued in the case of claims to or over land, and have also provided for compensation being given wholly or partly in land where the parties prefer land to money."—*Report of the Select Committee*.

**11.** (1) In the case of a claim to a right in or over any land, other than a right-of way or right of pasture, or a right to forest-produce or a water-course, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or in part, the Forest Settlement officer shall either—

(i) exclude such land from the limits of the proposed forest ; or



- (ii) come to an agreement with the owner thereof for the surrender of his rights ; or
  - (iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894\*.
- (3) For the purpose of so acquiring such land —
- (a) the Forest Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894 ; \*
  - (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act ;
  - (c) the provisions of the preceding sections of that Act shall be deemed to have been complied with ; and
  - (d) The Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

N. B. This section corresponds to section 10 of the old Act.

**Notes**—When the land is forest or waste, the Forest Officer, no doubt, has power to enquire into and determine as to rights of way or pasture, forest produce or water courses, and he may admit or reject such claims with finality because he is dealing with land in respect of which he has duly delegated jurisdiction. It is possible there may be other rights in or over land which may render it desirable for Government to acquire full ownership and for such case section 10 of the Indian Forest Act, (=this section) provides, without, however, extending the application of the section to any land incapable of constitution as reserved forest. Had such officer or Government similar power in respect of all lands whether forest or waste or not, then we think it is evident that section 83 of the Indian Forest Act (=section 84) of this Act empowering Government to acquire any land whatsoever for the purpose of the Act under the land Acquisition Act would be superfluous. For if section 10, (= this section) applies to all lands forest or waste or not, the power given by section 83 (= section 84 of this Act) must already have been given. We would add that the provisions of section 9, extinguishing all claims not preferred within 3 months under section 6 or otherwise ascertained, could never have been intended, in our opinion to apply to rights for the assertion of which the Limitation Act provides a period of 12 years." 29 B. 480 = 7 Bom. L. R. 497 ; see also 12 M. 105. The provisions of the Indian Forest Act VII of 1878, do not bar the jurisdiction of the Courts to decide whether the land in suit is or is not forest or waste land. 29 B. 489 = 7 Bom. L. R. 496 ; see also 11 M. 309.

Cf. also 20 M. 279 ; 21 B. 396 ; 3 M. L. J. 231.

**12.** In the case of a claim to rights of pasture or to forest produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

**Notes**—"From section 12 the provisions contained in section 10 of the Bill as introduced for the rejection of rights which were not habitually exercised by the claimants at the time of the notification under section 4 and which were not required for the beneficial use of the land or premises of the person claiming the same, have been omitted."—*Report of the Select Committee.*

**13.** The Forest Settlement-officer, when passing any order under section 12, shall record, so far as may be practicable,—

- (a) the name, father's name, caste, residence and occupation of the person claiming the right ; and
- (b) the designation, position and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any) in respect of which the exercise of such rights is claimed,

**Notes**—This section corresponds to section 12 of the old Act.

**14.** If the Forest Settlement-officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, and such other particulars as the case may require. He shall also record whether the timber or other forest produce obtained by the exercise of the rights claimed may be sold or bartered.

**Notes.**—This section corresponds to section 13 of the old Act. Where a manor was part of a royal forest, and the Crown had the right to turn deer upon the waste to an unlimited extent, but upwards of twenty years no deer had been seen there, and the lord of the manor inclosed a portion of the waste *Held*, that in determining whether sufficient common was left the right of the Crown is not to be taken into consideration. *Lake v. Plaseton*, 10 Ex. 196 = 24 L. J. Ex. 52.

**15** (1) After making such record the Forest Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.

(2) For this purpose the Forest Settlement-officer may—

- (a) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest produce (as the case may be) to the extent so admitted; or
- (b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or
- (c) records an order, continuing to such claimants right of pasture or to forest produce, as the case may be, to the extent so admitted, at such seasons within such portions of the proposed forest, under such rules as may be made in this behalf by the Local Government.

**Notes.**—This section corresponds to section 14 of the Old Act. Demurer overruled to a bill by the poor of a parish, claiming a right by grant from the crown to cut wood on waste lands within a royal forest for their own use and for sale to the other inhabitants of the parish. *Willingale v. Maitland*, 36 L. J. C, 64 = L. R. 3 Eq. 103.

**16.** In case the Forest Settlement-officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted, he shall, subject to such rules as the Local Government may make in this behalf, commute such rights, by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

**N. B.**—This section corresponds to section 15 of the old Act. This power is given to the Forest Settlement-officer for the preservation of the Reserved Forest.

**17.** Any person who has made a claim under this Act, or any Forest-officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement-officer under section 11, section 12, section 15 or section 16, present an appeal from such

order to such officer of the Revenue Department, of rank not lower than that of a Collector, as the Local Government may, by notification in the local official Gazette, appoint to hear appeals from such orders :

Provided that the Local Government may establish a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the Local Government, and, when the forest Court has been so established, all such appeals shall be presented to it.

N. B.—This section corresponds to section 16 of the old Act.

**Notes.**—This section and the next section expresses more clearly than section 15 of the Bill as introduced before the passing of Act VII of 1878, the intention of the latter as to the authorities by whom and the manner in which appeals are to be heard. —*Report of the Select Committee.* If a Court of limited jurisdiction exceeds its powers and adjudicates on a claim over which it has no jurisdiction, the Court (if any) which exercises appellate jurisdiction over it is bound to entertain an appeal preferred against the Lower Court's decision and to correct the error. 17 M. 193. Delay in preferring an appeal under the Madras Forest Act beyond the period prescribed by this section may be excused by section 5 of Limitation Act. 10 M. 210.

**18. (1)** Every appeal under section 17 shall be made by petition in writing, and may be delivered to the Forest Settlement-officer, who shall forward it without delay to the authority competent to hear the same.

(2) If the appeal be to an officer appointed under section 17, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.

(3) If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

(4) The order passed on the appeal by such officer or Court, or by the majority of the members of such Court, as the case may be, shall, subject only to revision by the Local Government, be final.

**Notes.**—This section corresponds to section 17 of the Old Act. This section lays down the procedure to be adopted in filing an appeal, hearing it and in delivering the judgment of the appellate Court.

**19.** The Local Government, or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement-officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

**Notes.**—This section corresponds to section 18 of the Old Act. By this section the claimants may if they think fit, appoint pleaders to act on their behalf.

Notification declaring  
forest reserved.

**20. (1)** When the following events have occurred, namely :—

(a) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement-officer ;

(b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court ; and

(c) all lands (if any) to be included in the proposed forest, which the Forest Settlement-officer has, under section 11, elected to acquire

under the Land Acquisition Act, 1894,\* have become vested in the Government under section 16 of that Act, the Local Government shall publish a notification in the local official Gazette, specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

(a) From the date so fixed such forest shall be deemed to be a reserved forest.

N. B.—This section corresponds to section 19 of the Old Act.

**Notes.**—This section lays down that the Local Government may publish a notification declaring a forest to be reserved when certain events have occurred, and that forest shall become reserved from the date specified in the notification. One of the events which must have occurred before the Governor in Council can declare a forest reserved is the disposal of all claims made by owners and occupiers of land. 12 M. 226. Grazing in Government waste land in contravention of a notification under this section is an offence under s. 426 of the Penal Code. 1 Weir. 492; 1 Weir. 497. But grazing cattle in a forest under re-settlement is not an offence. 8 Bom. L. R. 549.

Publication of translation of such notification in neighbourhood of forest.

**21.** The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.

**Notes.**—This section corresponds to section 20 of the Old Act. Publication of translation of such notification in neighbourhood of forest is with view to give information to the native owners who do not understand English.

**22.** The Local Government may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

**Notes.**—This section corresponds to section 21 of the old Act.

**Notes.**—“We have made a new provision for the revision by the Local Government, at any time not exceeding five years from the date of the Notification under section 20, or any settlement effected under section 14 which experience has shown to be unworkable.”—*Report of the Select Committee.*

**23.** No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or some person in whom such right was vested when the notification under section 20 was issued

No right acquired over reserved forest, except as here provided.

**Notes.**—This section corresponds to section 22 of the Old Act.

**24.** (1) Notwithstanding anything contained in section 23, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government :

Rights not to be alienated without sanction.

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

(2) No timber or other forest produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section 14.

**Notes.**—"We have provided that rights appendant to any land or house may be freely alienated therewith."—*Report of the Select Committee.*

**25.** The Forest officer may, with the previous sanction of the Local Government or of any officer duly authorised by it in this behalf, stop any public or private way or water-course in a reserved forest, provided that a substitute for the way or water course so stopped, which the Local Government deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest officer in lieu thereof.

**Notes.**—Chapters III and IV contain provisions regarding forest lands belonging to Government or in which the Government has proprietary rights, which it is deemed necessary to subject, as district or village forests, to regulations less stringent than those indispensable for recorded forests.—*Statement of Objects and Reasons of Act VII of 1878.* This section has been amended in phraseology, so as to admit of forests, the use of which is essential to village communities, or in which such communities have rights jointly with Government, being assigned to such communities, under suitable precautions against waste or misappropriation.—*Report of the Select Committee.*

Acts prohibited in such forests.

**26. (1) Any person who—**

- (a) makes any fresh clearing prohibited by section 5, or
- (b) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest ;

or who, in a reserved forest—

- (c) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf ;
- (d) trespasses or pastures cattle, or permits cattle to trespass ;
- (e) causes any damage by negligence in felling any tree or cutting or dragging any timber ;
- (f) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from, or otherwise damages, the same ;
- (g) quarries stone, burns lime or charcoal, or collects, subject to any manufacturing process, or removes, any forest-produce ;
- (h) clears or breaks up any land for cultivation or any other purpose ;
- (i) in contravention of any rules made in this behalf by the Local Government hunts, shoots, fishes, poisons water or sets traps or snares ; or
- (j) in any area in which the Elephant's Preservation Act, 1879,\* is not in force, kills or catches elephants in contravention of any rules so made ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

(2) Nothing in this section shall be deemed to prohibit—

- (a) any act done by permission in writing of the Forest-officer, or under any rule made by the Local Government ; or

(b) the exercise of any right continued under clause (c) of sub-section (2) of section 15, or created by grant or contract in writing made by or on behalf of Government under section 23.

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

N. B.—This section corresponds to section 25 of the old Act.

**Summons Case.**—A case under this section is a "summons case" and the Tasildar, if he did not find the accused guilty was bound to acquit him, and no order under s. 437, Cr. P. Code, directing further enquiry, could be passed. P. L. R. 1900 Cr. 50=19 P. R. 1900 Cr. There is no provision either in this Act or the Rules framed there under to award compensation for damages in respect of protected forest. 8 Bom. L. R. 987.

**Clause (b).**—A person is said to set fire to a thing if he puts a match to it or sets it on fire directly, and not if it catches fire as an indirect consequence of his act. The accused kindled a fire in his master's garden which spread to an unclassified forest, and thence to a reserved forest : *Held*, that the accused could not be said to have set fire to either of the forests within the meaning of clause (b). 36 Ind. Cas. 138=17 Cr. L. J. 458=30 P. R. (1916) Cr.=51 P. W. R. 1916.

**Clause (c).**—Mere possession of flint or steel is not offence. 4 Bom. L. R. 935.

**Clause (d).**—Trespass in reserved forest is punishable. Rat. Un. Cr. C. 602. The question whether the owner of cattle, whose animals trespass in a reserved forest, is criminally liable under this clause depends upon the whole circumstances of each particular case. In great many cases, the question will resolve itself into, 'did he or did he not take proper precautions to prevent such trespass,' and it does not depend upon the presence or absence of the owner at the moment. 16 P. R. 1909 Cr.=40 P. W. R. 1909 Cr.=4 Ind. Cas. 866. This clause is applicable to any one who does any act mentioned herein. 16 Cr. L. J. 485=29 Ind. Cas. 325=11 N. L. R. 76. A person who has a license for grazing cannot be convicted under this clause unless by an overt act or negligent omission he permitted the cattle to trespass into Reserve Forest. 87 Ind. Cas. 918=26 Cr. L. J. 1030. The Berar grazing rules do not enforce a liability on a master for the acts of his servants *Ibid*; but see 29 Ind. Cas. 325=11 N. L. R. 76=16 Cr. L. J. 485.

Levy of pound fees under Act I of 1871 is no bar to a prosecution under this clause. 19 P. R. 1885 Cr.

**Clause (f).**—A person felling a number of trees in a forest is guilty of as many offences under clause (f) as the number of trees felled by him. 43 Ind. Cas. 577.

**Clause (i).**—The word 'hunt' is used intransitively in this clause. 12 Bom. L. R. 520. The accused who had his cattle killed by a tiger, successfully tracked and shoot a tiger without a license in a reserved forest. *held* he is technically guilty under rule 3 (a) framed under this clause. 42 B. 406=20 Bom. L. R. 304=45 Ind. Cas. 514=19 Cr. L. J. 610; see also 15 A. L. J. 824=40 A. 38=42 Ind. Cas. 922=19 Cr. L. J. 10; Rat. Un. Rep. 684.

**Miscellaneous.**—There is no provision in this Act for compensation or damages : 8 Bom. L. R. 987=5 Cr. L. J. 9. In the absence of any thing in the special Act, an intention to exclude the operation of the general criminal law should not be inferred. 10 P. R. 1885 Cr. The payment of rewards out of fines and confiscation is no part of the sentence. Rat. Lm. Cr. C. 960.

**27. (1)** The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

(2) From the date so fixed, such forest or portion shall cease to be reserved ; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

**Notes.**—This section corresponds to section 26 of the old Act.

## CHAPTER III.

## OF VILLAGE-FORESTS.

**28. (1)** The Local Government may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village forests.

Formation of village-forest.

(2) The Local Government may make rules for regulating the management of village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest produce or pasture, and their duties for the protection and improvement of such forest.

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

N. B.—This section corresponds to section 27 of the old Act.

**Notes.**—Chapters III and IV contain provisions regarding forest land belonging to Government or in which the Government has proprietary rights, which it is deemed necessary to subject, as district or village forest, to regulations less stringent than those indispensable for reserved forests.—*Report of the Select Committee.*

## CHAPTER IV.

## OF PROTECTED FORESTS.

**29. (1)** The Local Government may, by notification in the local official Gazette, declare the provisions of this Chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

Protected forests.

(2) The forest-land and waste lands comprised in any such notification shall be called a "protected forest."

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved.

Provided that, if, in the case of any forest-land or waste-land, the Local Government thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the Local Government may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

N. B.—This section corresponds to section 28 of the old Act.

**Notes.**—Chapters III and IV contain provisions regarding forest lands belonging to Government or in which the Government has proprietary rights, which it is deemed necessary to subject, as district or village forests, to regulations less stringent than

those indispensable for Reserved Forests.—*Statement of Objects and Reasons of Act VII of 1878.* The Legislature have provided in this section that no land shall be constituted a Protected Forest unless the nature and extent of the rights of Government and other persons in it have been enquired into and recorded at a survey or settlement or in some other sufficient manner. At the same time it has been left open to any person to dispute the correctness of such record.—*Report of the Select Committee.* A protected forest may be notified under this section. 7 Bom. L. R. 462; see also 46 A. 128 = 1924 All. 539 = 81 Ind. Cas. 711 = 25 Cr. L. J. 999. A particular area had formerly been "protected forest" within the meaning of Chapter VI of Act VII of 1878; and in 1916 it had been removed from the category of "protected forest," and placed in the category of "reserved forest." Afterwards in 1922 by notification it ceased to be reserved forest. *Held*, the effect of the notification was to restore the status of the land to what it was before, i.e., it again became "protected forest." Therefore the provision of sections 29 and 32 of the Forest Act, 1878 would apply to it. *Ibid.*

Power to issue notification  
reserving trees, etc.

**30.** The Local Government may, by notification in the local official Gazette,—

- (a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification;
- (b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the Local Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed; or
- (c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

N.B.—This section corresponds to sec. 29 of the old Act.

**Notes.**—In this section the legislature have inserted a provision to permit of the closing of portions of a protected forest for a limited period, provided the remainder of the forest be sufficient and convenient for the exercise of rights thus temporarily suspended in the portion closed. This provision is in accordance with the rules of the N. W. Provinces made under the law existing before Act VII of 1878.—*Report of the Select Committee.* Where "bracking" only is forbidden by the notification an offence is not committed when there has been only clearing. A. I. R. (1927) All. 21. A notification, under section 29 (a) (=clause a of this section) which does not fix any date from which any class of trees is to be reserved, is bad and a conviction for cutting trees described as reserved in such notification under 32 is illegal. A. I. R. 1927 Cal. 516.

**31.** The Collector shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Publication of translation  
of such notification in  
neighbourhood.

Power to make rules for  
protected forests.

**32.** The Local Government may make rules to regulate the following matters, namely:—

- (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest produce, from protected forests;
- (b) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other



forest-produce for their own use, and the production and return of such licenses by such persons ;

- (c) the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licenses by such persons ;
- (d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest-produce ;
- (e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made ;
- (f) the examination of forest-produce passing out of such forests ;
- (g) the clearing and breaking up of land for cultivation or other purposes in such forests ;
- (h) the protection from fire of timber lying in such forests and of trees reserved under section 30 ;
- (i) the cutting of grass and pasturing of cattle in such forests ;
- (j) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879,\* is not in force ;
- (k) the protection and management of any portion of a forest closed under section 30 ; and
- (l) the exercise of rights referred to in section 29

**Notes.**—By section 32 the Local Government is given power to make rules to regulate the exercise of recorded rights, so as to prevent, in the interest of the community, waste and injury to the forests.—*Report of the Select Committee.* For rules framed under this section under Act VII of 1878 for (1) Bombay, vide pp. 167, 171 and 174 of the Bombay list of Local Rules and Orders. Ed. 1896 ; (2) for protected forest at Naini Tal, Ranikhet and Lalitpur, see p. 62 of the North Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894 ; (3) for rules made by the Government of Bengal under this section and section 41 for the protected forests in the Santhal Parganas, see Calcutta Gazette, 1901, Pt. I p. 571 ; in the *Sunderbans*, see Calcutta Gazette, 1892, Pt. I p. 403 *ibid*, 1900, Pt. I, p. I, p. 434 ; in the Bengal protected forests, see Calcutta Gazette, 1901 Pt. I p. 879.

Penalties for acts in contravention of notification under section 30 or of rules under section 32.

**33. (1)** Any person who commits any of the following offences, namely :—

- (a) fells, girdles, lops, taps or burns any tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, any such tree ;
- (b) contrary to any prohibition under section 30, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce ;
- (c) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in any protected forest ;

(d) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any tree reserved under section 30, whether standing, fallen or felled, or to any closed portion of such forest :

(e) leaves burning any fire kindled by him in the vicinity of any such tree or closed portion ;

(f) fells any tree or drags any timber so as to damage any tree reserved as aforesaid ;

(g) permits cattle to damage any such tree ;

(h) infringes any rule made under section 32 ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) Whenever fire is caused wilfully or by gross negligence in a protected forest, the Local Government may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

N. B.—This section corresponds to section 32 of the old Act.

**Notes.**—In acquitting an accused convicted of cutting trees reserved in a protected forest under section 29 (a) [= s. 30 (a) of this Act], held that protected forest may be notified either under s. 28 (= s. 29 of this Act) or s. 34 (that section has been omitted in this Act) but the powers under both these sections are restricted to lands which are forest or waste lands. Whatever liability the accused might be under in regard to the provisions of any other law, he could not be convicted under section 32, of Act VII of 1878 for the land which formed part of a survey number in an occupant's holding and which was assessed was not shown to be within the class of lands to which the powers of Government under ss. 28, 29 and 34 of the Forest Act applied. 7 Bom. L. R. 462 = 264 Cr. L. J. 437. A particular area had formerly been "protected forest" within the meaning of chapter 4 of Act VII of 1878 ; and in 1916 it had been removed from the category of "protected forest" and placed in the category of "reserved forest" afterwards in 1922 by notification it ceased to be reserved forest. *Held*, the effect of the notification was to restore the status of the land to what it was before i.e. it again became "protected forest" therefore the provisions of sections 29 and 32 of the Forest Act would apply to it. 46 A. 128 = 25 Cr. L. J. 999 = 81 Ind. Cas. 711 = 1924 All. 539.

The Forest Act, 1878, is one curtailing the proprietary rights of individuals, and the Act and the notifications under it must be construed strictly where the rights of individuals are trenching upon. 55 P. L. R. 1901. There is no provision, either in the Act or the rules framed thereunder, to award compensation for damages in respect of the protected forest. 8 Bom. L. R. 987 = 5 Cr. L. J. 9.

The accused, a contractor engaged by the Public Works Department, quarried stones required for a public road, from a place which was pointed out to him by the officers of that department. The place in question was in a protected forest and no permission was taken of the Forest Department for quarrying. The accused was under these circumstances convicted of an offence under s. 39, cls (a), (b) and (e) of the Indian Forest Act, 1878, read with ss. 4 and 114 of the Penal Code : *Held*, reversing the conviction and the sentence that the accused was entitled to the protection of s. 79 of the Penal Code. 14 Bom. L. R. 365 = 15 Ind. Cas. 802 = 13 Cr. L. J. 530 = 1 Bom. Cr. C. 128. Where a man enters a forest and cuts down reserved trees he cannot be convicted both under s. 32 of the Forest Act, for cutting down reserved trees, and s. 447 of the Indian Penal Code, for criminal trespass, the latter offence being included in the former. 11 A. L. J. 340 = 14 Cr. L. J. 424 = 20 Ind. Cas. 408. In case of conviction under this section the whole of the forest produce as regards which the offence has been committed should be confiscated and handed over to the Forest Department of the Government. 1 P. R. 1912 Cr. = 15 P. W. R. 1912 Cr. = 13 Ind. Cas. 924 = 13 Cr. L. J. 172 = 37 P. L. R. 1902.

**34.** Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or to prohibit acts done in accordance with rules made under section 32, or, in certain cases, except as regards any portion of a forest closed under section 30, or as regards any rights the exercise of which has been suspended under section 33, in the exercise of any right recorded under section 29.

## CHAPTER V.

### OF THE CONTROL OVER FOREST AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

**35.** (1) The Local Government may, by notification in the local official Gazette, regulate or prohibit in any forest or waste land—

(a) the breaking up or clearing of land for cultivation ;  
 (b) the pasturing of cattle ; or  
 (c) the firing or clearing of the vegetation ;  
 when such regulation or prohibition appear necessary for any of the following purposes :—

(i) for protection against storms, winds, rolling stones, floods and avalanches ;

(ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel ;

(iii) for the maintenance of a water-supply in springs, rivers and tanks ;

(iv) for the protection of roads, bridges, railways and other lines of communication ;

(v) for the preservation of the public health

(2) The Local Government may, for any such purpose, construct at its own expense, in or upon any forest or waste land, such work as it thinks fit.

(3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the Local Government.

**Notes.**—"In order to preclude hardship to the owners of private forests from the operation of chapter V, we have enabled such owners to require the Government to acquire the same land for public purposes".—*Report of the Select Committee.*

**36.** (1) In case of neglect of, or wilful disobedience to, any regulation or prohibition under section 35, or if the purposes of any work to be constructed under that section so require, the Local Government may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under the control of a Forest-officer, and may

Power to assume management of forests.

declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

(2) The net profits, if any, arising from the management of such forest or land shall be paid to the said owner.

**Notes.**—Under this section in the case of contingency mentioned here in the management only of forests vests in a Forest officer. The owner however is entitled to the net profits, if any, arising from the management of such forest or land.

**37. (1)** In any case under this Chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a Forest officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894,\*

(2) The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

**Notes.**—Clause (a) gives option to the Local Government to acquire such forest under the Land Acquisition Act of 1894. Similarly the owner of any forest comprised in any notification under section 35, has the option of requiring the Local Government to acquire such forest under the Land Acquisition proceedings. But this option must be exercised within 12 months from the date of the notification under s. 35.

**38. (1)** The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire—

(a) that such land be managed on their behalf by the Forest officer as a reserved or a protected forest on such terms as may be mutually agreed upon ; or

(b) that all or any of the provisions of this Act be applied to such land.

(2) In either case, the Local Government may by notification in the local official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

**Notes.**—"We have added a section (38) to enable Government, at the request of owners of land, either to administer such land as Reserved and Protected Forest, or to apply to it all or any of the provisions of the Bill. The improvement has been made at the suggestion of the Punjab Government, with special reference to sacred and other private forests, in that province, but we have reason to believe, that the option of obtaining for these forest property the same legal protection and also (if desired) the same settled administration, as the Government provides for its own, is likely to be welcomed by the owners of rent free estates and other private property in many parts of India".—*Report of the Select Committee.*

## CHAPTER VI.

## OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE.

**39.** (1) The Local Government may levy a duty in such manner, at such places and at such rates as it may declare by notification in the local official Gazette on all timber or other forest-produce—

Power to impose duty on timber and other forest-produce.

(a) which is produced in British India, and in respect of which the Government has any right ;

(b) which is brought from any place outside British India ;

Provided that a notification directing the levy of a duty, in the case of timber and other forest produce brought from any place outside British India which is not under the control of the Local Government, shall not be issued without the previous sanction of the Governor General in Council.

(2) In every case in which such duty is directed to be levied *ad valorem*, the Local Government may fix by like notification the value on which such duty shall be assessed.

(3) All duties on timber or other forest-produce which, at the time when this Act comes into force in any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

**Notes.**—"We have restricted the power of levying a duty on timber produced in British India to timbers in respect of which the Government has any rights. The holder of land under *lakhraj*, *inami* or other tenures in which forest rights are included will thus not be interfered with. We have likewise validated the levy of such duties now existing, which are numerous in certain parts of India."—*Report of the Select Committee.*

**Clause (b).**—The ordinary interpretation of clause (b) would be that the duty is to be levied from the person who actually brought the timber from some place outside British India to the place, where on its importation the duty becomes leviable and thus it would be straining clause (b) to hold that timber of which a person obtaining possession and which has been originally brought from a place beyond the frontier of British India, is leviable in the hands of that person to duty, though he has taken no part in the bringing of that timber from the place beyond the frontier. What the clause only contemplates is the levy of duty from a person, who has actually brought timber from a foreign place to the place where the duty is leviable ; and if in 'ac', a person has not brought it from such foreign place and has not participated in a conspiracy so to bring it, the timber is not liable in his hands to a levy of duty. 17 Bom. L. R. 72 ; A. I. R. 1927 Bom. 483.

**40.** Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

Limit not to apply to purchase-money or royalty.

## CHAPTER VII.

## OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

**41.** (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it may make rules to regulate the transit of all timber and other forest-produce.

Power to make rules to regulate transit of forest-produce.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

- (a) prescribe the routes by which alone timber or other forest-produce may be imported, exported or moved into, from or within British India ;
- (b) prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass ;
- (c) provide for the issue, production and return of such passes and for the payment of fees therefor ;
- (d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or, to which it is desirable for the purposes of this Act to affix a mark ;
- (e) provide for the establishment and regulation of depots to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it ; and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots ;
- (f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed ;
- (g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same ;
- (h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing or making of timber, the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber ;
- (i) regulate the use of property marks for timber, and the registration of such marks ; prescribe the time for which such registration shall hold good ; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration

(3) The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.

**Notes.**—The words “timber” and “forest-produce” in section 41 are used in the widest sense as given in the definitions to be found in section 2 and not in the narrow and restricted sense especially introduced to define and limit the powers described in Chapter 7. *Lal Badsha v. Emperor*, A. I. R. 1928, Lah. 40

**Notes.**—“Timber and other forest produce” in s. 41 of the Forest Act refers to what is described in s. 39. 76 Ind. Cas. 104=25 Cr. L. J. 104.

**Rules.**—For rules framed under s. 41 of Act VII of 1878 for (1) Bombay, see p. lix of the Bombay list of local rules and orders; (2) the Central Provinces, see p. 25 of the Central Provinces list of local rules and orders, Ed. 1896; (3) the United Provinces see the North Western Provinces and Oudh list of local rules and orders Ed. 1894 p. 66. Where a person is convicted of an offence under rules 21, 26 framed under section 41, Forest Act, 1878, compensation cannot be awarded in addition to the imposition of fine. 5 Bom. L. R. 126. There is no rule made under s. 41 of the Forest Act, for the Khandesh District, which requires holders of passes to return them, and the omission to return a pass is not therefore an offence. Rat. Un. Cr. C. 500. The first accused was a forest contractor and the second accused was a forest officer. The first accused purchased and cut 44 sandal wood trees from survey No 32 and 9 trees from survey Nos. 25 and 26. He obtained seven passes from the Forest Department giving him permission to remove 34 trees and 25 branches cut from survey Nos 25 and 26 under rule 8 of the rules under the Forest Act. The first accused with the knowledge and consent of the second accused removed sandal wood trees he had cut in all survey numbers and carried them away to a different destination from the one indicated in the passes. The wood was then cut off into chips. *Held*, that the first accused was guilty of a breach of rule No 2 of the rules framed under the Forest Act. It was not proved that the second accused was guilty because there was nothing to show that the trees removed under the passes exceeded the quantity and description of the forest produce mentioned in the passes and secondly because he had nothing to do with the destination to which the wood was carried. 26 Bom. L. R. 971=1924 Bom. 439.

The River Rules of the Chittagong Hill Tracts framed under s. 41 under the Forest Act relates to reserved forests of the Government, and have no application to the case of a person who has obtained a lease of a forest in fee simple. The removal, by such a lessee of bamboos from one portion of the estate to another is not an offence punishable under those rules. 57 Ind. Cas. 819=21 Cr. L. J. 659.

Rule 4, cl (a) of the rules made under s. 41 of the the Forest Act is *ultra vires*. Hence the prohibition contained in the said rule about the moving of firewood from private land without a certificate from the holder or manager of such land is not a proper prohibition. Clause (b) sub-cl. (a) of section 41 of the Forest Act provides for passes being issued by duly authorized officers; it does not authorize the issue of certificates by private land-owners. 10 S. L. R. 9=17 Cr. L. J. 364=35 Ind. Cas. 668. A person though convicted for breach of rule (4) made under section 41 (c) of the Forest Act, 1878, by trial and lower appellate Courts was acquitted in revision on the wrong interpretation of the words "timber" and "forest produce" in section 41. He was again prosecuted and acquitted for repetition of the same offence, but no appeal for acquittal was preferred. Again the same person's timber was confiscated for the third time in order to test the prior decision of the High Court. *Held* that the confiscation though vexatious was necessary. A I. R. 1928 (Lah.) 80.

**42. (1) The Local Government may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.**

Penalty for breach of rules made under section 41.

(2) Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

**Notes**—The ambiguous language of the second paragraph of section 42 of Act VII of 1878 has been altered so as to bring it into conformity with what appears to have been the original intention of the law—*Statement of Objects and Reasons*. Where rules framed under section 41 is *ultra vires*, a conviction cannot be had for acting in contravention of such rules. 35 Ind. Cas. 668=10 S. L. R. 9=17 Cr. L. J. 364.

**43.** The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act; and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

**Notes**—Under this section the liability of the Forest-officer for loss or damage of forest produce is only confined to cases of damage caused by negligence malice or fraud.

**44** In case of any accident or emergency involving danger to any property at any such depot, every person employed at such depot, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger or securing such property from damage or loss.

All persons bound to aid in case of accident at depot.

## CHAPTER VIII.

### OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

**45.** (1) All timber found adrift, beached, stranded or sunk ; all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, or on which the marks have been obliterated, altered or defaced by fire or otherwise ; and

in such areas as the Local Government directs, all unmarked wood and timber ;

shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

(2) Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to any depot which the Forest officer may notify as a depot for the reception of drift timber.

(3) The Local Government may, by notification in the local official Gazette, exempt any class of timber from the provisions of this section.

**Notes.**—In section 45 we have empowered the Local Government to exempt any particular class of timber from the operation of the section, partly in order not to interfere with the collection of drift wood for fuel, which is common among the poorer classes in certain localities.—*Report of the Select Committee.* Before a person can be legally convicted of a breach of the rules framed under section 51, it must be shown that the timber of which he was found in possession was timber that has gone below the catching places, that is to say, drift or stranded timber. Though the possession of the unmarked timber within the area specified by the Local Government under section 45 may be sufficient to establish that the timber was the property of the Government, yet it would not be sufficient to convict a person under section 51. 13 P. R. 1883 Cr. The Indian Forest Act (Act VII of 1878) has not the effect of taking away from private owners, and vesting in Government, any rights to drift and stranded timber which such owners possessed before and at the time of passing of the Act, except in so far as these rights might be affected by their failure to prefer their claims. The object of the Act is regulation and not confiscation. The title to collect "drift and stranded



timber" given to the Government by the Act, is coupled with, and dependent upon, the duty of giving notice to the public in order that the true owner, whether be a person from whom it has escaped, or the owner of a *julkur*, or however he may be entitled, may claim such timber in the manner, and within the time prescribed by the Act. In cases where the Government neglects to follow the procedure prescribed by the Act, and treats the timber as its own property, it, in the event of its being found that the property does not belong to it, is in no better position than any other trespasser. The so-called presumptive ownership of the Government does not exist, save where the Government collects and holds, for the true owner, in the first instance, and subject to the statutory duty of giving him due notice. The term *julkur* is a general one signifying "water-rights" and might therefore, aptly include the right to drift and stranded timber, as well as the right of fishing, or any other interest of similar kind in the produce of water. 24 C. 504 P. C. = 24 I. A. 33 = 1 C. W. N. 249.

**46** Public notice shall from time to time be given by the Forest-officer of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

Notice to claimants of drift timber.

**47.** (1) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

Procedure on claim preferred to such timber.

(2) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from any such Court for its disposal.

(3) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government, or against any Forest-officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(4) No such timber shall be subject to process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

**48.** If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 46, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 47, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 47, in such other person free from all encumbrances not created by him.

Disposal of unclaimed timber.

**49.** The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Government and its officers not liable for damage to such timber.

**50.** No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest officer or other person entitled to receive it such sum on account thereof as may be due under any rule made under section 51.

Payments to be made by claimant before timber is delivered to him.

Power to make rules and prescribe penalties.

**51.** (1) The Local Government may make rules to regulate the following matters, namely :—

- (a) the salving, collection and disposal of all timber mentioned in section 45 ;
- (b) the use and registration of boats used in salving and collecting timber ;
- (c) the amounts to be paid for salving, collecting, moving, storing or disposing of such timber ; and
- (d) the use and registration of hammers and other instruments to be used for marking such timber.

(2) The Local Government may prescribe, as penalties for the contravention of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

**Notes.**—Before a person can be legally convicted of a breach of the rules framed under this section, it must be shown that the timber of which he was found in possession, was timber that has gone below the catching places, that is to say, drift or stranded timber. 13 P. R. 1883 Cr. I. *Held*, that the petitioner's conviction under s. 51 of Act VII of 1878 for being in possession of beams belonging to the Government was illegal, where the beams were found concealed in an open field, which it could not be said was in the exclusive possession of the petitioner. 128 P. L. R. 1908.

## CHAPTER IX.

### PENALTIES AND PROCEDURE.

**52.** (1) When there is reason to believe that a forest offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized

Seizure of property liable to confiscation.

by any Forest-officer or Police-officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made :

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be a report of the circumstances to his official superior.

**Notes.**—"We have recast the earlier sections of chapter IX, so as to bring them into closer conformity with similar provisions in other special laws."—*Report of the Select Committee to Act VII of 1878*. According to section 52 of the Forest Act, VII of 1878, a forest officer cannot justify the detention of goods on the ground of an offence against the forest laws, where he had not taken the course which that section prescribes of taking the matter before a magistrate. 15 B. 229.

**53.** Any Forest-officer of a rank not inferior to that of a Ranger who or whose subordinate, has seized any tools, boats, carts or cattle under section 52, may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

**54.** Upon the receipt of any such report, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law

**55.** (1) All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, shall be liable to confiscation.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

N. B.—This section corresponds to section 54 of the old Act.

**Notes.**—Where certain persons were convicted of a forest-offence under s. 32 of Act VII of 1878, with respect to certain timber or forest produce which was not wholly Government property, and where the timber or forest produce with reference to which the offence was committed was ordered to be confiscated and sold and the sale proceeds credited to the Government; *Held*, that the order of confiscation was quite legal under s. 54 of the Forest Act, 1878, 1 P. R. 1912 Cr.=37 P. L. R. 1912=13 Cr. L. J. 172=13 Ind. Cas. 324. No confiscation order is necessary or can be made, in respect of forest produce, which is the property of Government. 4 A. 417. So also a reward cannot be paid out of such property. Rat. Un. Cr. C. 620. An order for confiscation cannot be regarded as an order incidental on a conviction under the Act. The order of confiscation is a punishment and as such should be passed simultaneously with the punishment of the offence. 27 C. 450.

**56.** When the trial of any forest-offence is concluded, any forest produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest officer, and, in any other case, may be disposed of in such manner as the Court may direct.

N. B.—This section corresponds to s. 55 of the old Act.

**Notes.**—Where certain persons were convicted of a forest offence under s. 32 of Act VII of 1878, with respect to certain timber or forest produce which was not wholly Government property, and where the timber or forest produce with reference to which the offence was committed was ordered to be confiscated and sold and the sale proceeds credited to the Government. *Held*, that the order of confiscation was quite legal under s. 54 of the Forest Act of 1878, that under s. 55, the sale-proceeds must go to the Government in the Forest Department, and that the Magistrates should always make over the timber or forest produce in *specie* to the Forest Officer. 1 P. R. 1912 Cr.=37 P. L. R. 1912=13 Cr. L. J. 172=13 Ind. Cas. 924. Under this section, the property regarding which an offence has been committed, should be awarded to the Government. 5 Bom. L. R. 124. When the property belongs to the Government, it should be taken charge of by the Forest Officer. Rat. Un. Cr. C. 361.

**57.** When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom the Magistrate deems to be entitled to the same,

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

N.B.—This section corresponds to section 56 of the old Act.

Notes.—It is clear from this section that forfeiture was not a consequence of a forest offence, where a good title has vested in a third person. 2 Bom. L. R. 675.

**58.** The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Procedure as to perishable property seized under section 52.

**59.** The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Appeal from orders under section 55, section 56 or section 57.

N.B.—This section corresponds to section 58 of the Old Act.

Notes.—The terms of section 58 of the Forest Act do not exclude the ordinary revisional powers of the High Court over a subordinate tribunal in the exercise of its criminal jurisdiction, where there had been a judicial proceeding. 4 A. 417=A. W. N. 1882, 93.

**60.** When an order for the confiscation of any property has been passed under section 55, or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Property when to vest in Government.

**61.** Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 52.

Saving of power to release property seized.

**\*62.** Any Forest-officer or Police officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful seizure.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

**63.** Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code\*—

- (a) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person ; or

(b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer ; or

(c) alters, moves, destroys or defaces any boundary-mark of any forest or waste land to which the provisions of this Act are applied, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

**64.** (1) Any Forest-officer or Police officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police-station.

(3) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under Chapter IV unless such act has been prohibited under clause (c) of section 30.

N. B.—This section corresponds to section 63 of the old Act.

**Notes.**—A police-officer may arrest without a warrant. Rat. Un. Cr. C. 695, Under this section a Forest-officer cannot arrest without a warrant, persons committing an offence under section 30 and his custody is not a lawful custody under this section within the meaning of section 225 of the Penal Code. A. I. R. 1927 Cal. 516.

**65.** Any Forest-officer of a rank not inferior to that of a Ranger, who, or whose subordinate, has arrested any person under the provisions of section 64, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police-station.

**66.** Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

**Notes.**—An *inamdar*, the owner of a forest obtained in October 1891, a book of passes authorising him to issue the same for the transit of forest produce belonging to himself. Between October 1891, and March 1892, he issued 50 of those passes covering forest produce exceeding altogether 10 Khandis ; of those, about one Khandi may have belonged to the *inamdar* and the rest it was presumed, belonged to Government, but it could not be made out what particular pass or passes covered the produce belonging to the *inamdar* : *Held*, that he cannot be convicted under rule 256 framed under s. 41—Rat. Un. Cr. Cas. 659.

**67.** The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the Local Government may try summarily, under the Code of Criminal Procedure, 1898,\* any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

**68.** (1) The Local Government may, by notification in the local official Gazette, empower a Forest-officer—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence

specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty rupees.

**Notes.**—By this section the legislature has restricted the power of Forest-officers, as regards compounding, to the receipt of compensation for damage committed.—*Statement of Objects and Reasons.* "Such officer" in sub-section (2) means an officer empowered. Rat. Un. Cr. C. 591=Cr. Reg. 6 of 1892.

**69.** When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

N. B.—This section corresponds to s. 69 of the old Act.

**Notes.**—If the cattle were found straying in a reserved forest, the seizure of the same would be legal even if no damage had actually been done, in as much as section 69 of the Forest Act makes s. 11 of the Cattle Trespass Act applicable to forests, 22 B. 933.

## CHAPTER X.

### CATTLE-TRESPASS.

**70.** Cattle trespassing in a reserved forest or in any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, † and may be seized and impounded as such by any Forest-officer or Police-officer.

**71.** The Local Government may, by notification in the local official Gazette, direct that, in lieu of the fines fixed under section 12 of the Cattle trespass Act, 1871, \* † there shall be levied for each head of cattle impounded under section 70 of this Act such fines as it thinks fit, but not exceeding the following, that is to say :—

For each elephant . . . . .	ten rupees.
For each buffalo or camel . . . . .	two rupees.
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer . . . . .	one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid . . . . .	eight annas

\* of 1871.

## CHAPTER XI.

## OF FOREST-OFFICERS.

**72.** (1) The Local Government may invest any Forest-officer with all or any of the following powers, that is to say :—  
 Local Government may invest Forest-officers with certain powers.

- (a) power to enter upon any land and to survey, demarcate and make a map of the same ;
- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects ;
- (c) power to issue a search-warrant under the Code of Criminal Procedure, 1898 ; \* and
- (d) power to hold an inquiry into forest-offences, and, in the course of such inquiry to receive and record evidence.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

Forest-officers deemed public servants.

**73.** All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code. †

Indemnity for acts done in good faith.

**74.** No suit shall lie against any public servant for anything done by him in good faith under this Act

**Notes.**—A Sub-Assistant Conservator of Forests who had seized and detained timber which was passing through the forests, suspecting it to have been stolen from the forests, is competent to justify his conduct under this section on the ground of the commission of a forest offence arising from the want of a valid pass. 15 B. 229.

**75.** Except with the permission in writing of the Local Government, no Forest-officer shall, as principal or agent, trade in timber or other forest produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside British India.

## CHAPTER XII.

## SUBSIDIARY RULES.

Additional powers to make rules.

**76.** The Local Government may make rules—

- (a) to prescribe and limit the powers and duties of any Forest-officer under this Act ;
- (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act ;
- (c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons ; and
- (d) generally, to carry out the provisions of this Act.

\* V of 1898.

† XLV of 1860,

**Notes.**—By this section the Legislature have empowered the Local Government to make rules regarding the rewards to be paid to officers and informers out of the proceeds of fines and confiscations and for the preservation, reproduction and disposal of trees and timber belonging to Government but grown on lands belonging to, or in the occupation of, private persons.—*Report of the Select Committee on the previous Act.*

**Rules.**—For rules made under the corresponding section of Act VII of 1878 for (1) Bombay, see pp. 195 to 200 of the Bombay list of local rules and orders, Vol. I. Ed. 1896; (2) The Central Provinces, see pp. 31 to 34 of the Central Provinces list of local rules and orders, Ed. 1896; (3) the United Provinces, Vide pp. 68 to 70 of North-Western Provinces and Oudh list of local rules and orders Ed. 1894; and also North-Western Provinces and Oudh Gazette, 1899 pt I pp. 494 *Ibid* 1900 pt I p. 491; (4) Punjab, see Punjab Gazette, 1891 pt. p. 748.

The offence under s. 75 of the Forest Act is only committed, under the express terms of the Act and rules, when the trees cut are the property of the Government. 18B. 670. Of the rules framed under the Forest Act, r. 3. prohibits the removal of forest produce beyond certain limits without a pass from the conservator or some person duly authorised in that behalf under r. 13. Rat. Un. Cr. C. 424. Under rule (1) It is not competent to a Magistrate to order a reward to be less than half the amount of the fine when the reward is to be distributed among more than one person, the apportionment vests in the conservator of forest. Rat. Un. Cr. C. 4. 610 = Cr. Reg. 31 of 1892. Under rule (1) of the rules under s. 75 of the Forest Act, one half of the fine imposed is payable as reward without any order of the convicting Court. Rat. Un. Cr. C. 622 Rules framed under s. 75 (2) of the Forest Act of 1878 by the Bombay Government by which a person who has made a written tender for a contract to the forest department is prohibited from withdrawing the tender, is not *ultra vires*, though under s. 20 of the Contract Act an agreement without consideration is declared to be void and under s. 5 of the Contract Act a person who makes a proposal in declared entitled to withdraw it before it is accepted. 27 B. on L. R. 973 = 49B 759 = 89 Ind. Cas. 498 = A. I. R. 1925 Bom. 485 (F.B.). Sandal wood trees on occupancy land grown after survey settlement, belongs to the tenants. 45 Bom. 110 = 58 Ind. Cas. 60 = 22 Bom. L. R. 884.

**77.** Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

Penalties for breach of rules.

**Notes.**—The Court before convicting, is bound to satisfy itself of government proprietary rights in the usual modes and by means of the usual materials recognised in Courts of Justice. The declared opinion of the executive government merely as such can have no more weight with the Court than that of the humblest of Her Majesty's subjects. 18 B. 670. The accused kindled a fire in his master's garden which spread to an unclassified forest, and thence to a reserved forest. *Held*, that the accused could not be said to have set fire to either of the forests within the meaning of s. 25 (b) but is guilty under this section. 36. Ind. Cas. 138 = 30 P. R. 1916, Cr.

**78.** All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

Rules when to have force of law.



## CHAPTER XIII.

## MISCELLANEOUS.

**79.** (1) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and

Persons bound to assist  
Forest-officers and Police-  
officers.

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-officer or Police officer or not,—

(a) to extinguish any forest fire in such forest of which he has knowledge or information ;

(b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest,

and shall assist any Forest-officer or Police-officer demanding his aid—

(c) in preventing the commission in such forest of any forest-offence ; and

(d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

(2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails—

(a) to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information required by sub section (1) ;

(b) to take steps as required by sub-section (1) to extinguish any forest fire in a reserved or protected forest ;

(c) to prevent, as required by sub-section (1), any fire in the vicinity of such forest from spreading to such forest ; or

(d) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender ;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

N.B.—This section corresponds to section 78 of the old Act.

**Notes.**—A person refusing to serve as member of a *panch* appointed for the purpose of drawing *panch nama* with reference to certain wood alleged to have been illegally cut in the reserved forests, was held not to be liable to be convicted under section 187, I. P. C., as he was not shown to be a person contemplated in the provisions of the first three paragraphs of section 78 of Act VII of 1878, and as the purpose for which he was called upon to give his assistance was also not one of the purposes mentioned in clauses (a) and (b) of that section. 22 B. 769.

A *malguzar* can make an enquiry into the matter of damage done to the Government Forest. 9 Ind. Cas. 669 = 12 Cr. L. J. 112.

**80.** (1) If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Local Government may either—

(a) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same ; or

(b) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

(2) When the Local Government undertakes under clause (a) of sub-section (1) the management of any forest, waste land or produce, it may, by notification in the local official Gazette, declare that any of the provisions contained in Chapters II and IV shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly

**81.** If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed :

Provided that no such share shall be confiscated until the person entitled thereto, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the Local Government.

**Notes.**—"We have inserted a new section to enable the Government to enforce service in cases where persons are entitled to a share in the produce of forests on the condition of duly performing service in connection with such forests."—*Report of the Select Committee to frame Act VII of 1878.*

**82.** All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

**83.** (1) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.

(2) If such amount is not paid when due, the Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to His Majesty.

N. B.—This section corresponds to section 82 of the old Act.

**Notes.**—Where a forest contractor failed to pay certain overdue instalments and where, on such failure, the Forest Department attached his materials and confiscated and treated the same as properties of Government, under a term of the agreement between the contractor and themselves, and also attempted to collect the overdue

instalments in full. *Held*, that, under the terms of the contract, the Forest Department could not do so. *Held*, also that section 82 of the Forest Act of 1878 cannot cover what was done in this case. Section 82 of the Forest Act of 1878 (=this section) does not authorise an absolute confiscation of the forest produce and independent recovery of the amount due, such as the defendant sought to justify in this case. *Held*, also, that the Government cannot be allowed to raise for the first time in appeal a plea of justification under section 82. 9 S. L. R. 51—31 Ind. Cas. 436. Where a Range Forest Officer was acting in perfect good faith, but he had no jurisdiction whatever to seize timber under section 82 of the Indian Forest Act of 1878 (=this section) or under any other enactment: *Held*, that obstruction offered, to such officer is not punishable under section 186. A. I. R. 1927 Bom. 483; see also 15 Bom. L. R. 315; 13 B. 168.

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.

**84.** Whenever it appears to the Local Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.\*

**Notes.**—Vide notes under section 11 supra.

**85.** When any person, in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872 † be recovered from him in case of such breach as if it were an arrear of land-revenue.

N. B.—This section corresponds to section 84 of the old Act.

**Notes.**—This section does not apply generally to the consequences of a breach on the part of the contractor but only to a particular penalty provided for a breach of the condition as to the contractor performing any duty or act or abstaining from a particular act. 42 B. 194=27 Bom. L. R. 66=86 Ind. Cas 86=A. I. R. 1725 Bom. 227.

**86.** The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeals.

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\* I of 1894.

† IX of 1872.

## THE SCHEDULE.

(See section 86.)

## ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1878	VII	The Indian Forest Act, 1878.	So much as has not already been repealed.
1890	V	The Forest Act, 1890,	Ditto.
1891	XII	The Amending Act, 1891.	So much of Part I of Schedule II as relates to the Indian Forest Act, 1878.
1901	V	The Indian Forest (Amendment) Act, 1901.	So much as has not already been repealed.
1911	XV	The Indian Forest (Amendment) Act, 1911.	Ditto.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Forest Act, 1878 the Forest Act, 1890, and the Indian Forest (Amendment) Act, 1901.
1918	I	The Indian Forest (Amendment) Act, 1918.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of Schedule I, Part I, as relates to the Indian Forest Act, 1878.

# ACT NO. XVII OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

*Received the assent of the Governor General on the 21st September,  
1927.*

**An Act to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India.**

WHEREAS it is expedient to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India; It is hereby enacted as follows :—

**Notes.**—“Under the Devolution Rules ‘light-houses (including their approaches) beacons, light-ships and buoys’ are central subjects, but are now administered by Local Governments as agents of the Government of India under the rules made under section 45 A of the Government of India Act. Statutory powers are also vested in Local Governments by the Burma, Madras and Sind Coast-lights Acts. The object of the present Bill is to vest in the Governor General in Council the statutory powers necessary for the discharge of his responsibilities in order that this subject, may, in future, be directly administered by the Central Government.

“Under the present system of administration there are considerable differences from province to province, not only in the method of administration, but also in finance. Light dues are levied in some provinces, but not in others, and, where levied, they vary in the method of calculation, as well as in amount. In Madras, there is a separate Coast-lights fund, to which light dues are credited and from which all expenditure on Coast-lights is met. The Burma light dues, on the other hand, are credited to central revenues, and expenditure is met from grants voted by the Legislative Assembly. In Sind, again, light dues are also credited to central revenues, and expenditure is met from grants voted by the Legislative Assembly. On the other hand all light houses in the Bombay Presidency proper, except the lights of Bombay Port and its approaches, are financed from the Bombay Minor Ports Funds, to which passing trades contributes nothing. The whole cost of the Perim lights and part of the cost of the Aden lights are borne by Central revenues, and the Orissa lights are charged partly on Central and partly on Provincial revenues.”—*Statement of Objects and Reasons.*

## PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Indian Light-house Act, 1927.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

**Notes.**—“The Bill extends to the whole of British India, which is the limit of the legislative power of the Indian Legislature. But in addition to light-houses in British India, the Government of India already administer light-houses in the Persian Gulf and in the Southern part of the Red Sea. And it is possible also that some arrangement may be made in respect of light-houses in Indian States similar to the arrangement which already exists in Madras. In that event, it may be desired to bring all such light-houses into a single administration with a common account of revenue and expenditure. In order therefore, to cover a possible extension on these lines, clause 9 of the Bill has been drafted so as to permit the expenditure of light dues levied in British India on light-houses whether within or beyond the limits of British India,

provided always that such lighthouses are 'for the benefit of ships voyaging to or from British India, or between parts in British India.'—*Statement of Objects and Reasons.*

## Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Customs-collector" means an officer of customs exercising the powers of a Customs-collector under the Sea Customs Act, 1878,\* and includes any person appointed by the Governor General in Council to discharge the functions of a Customs-collector under this Act ;
- (b) "district" means an area defined as a district for the purposes of this Act under section 3 ;
- (c) "general lighthouse" means any lighthouse which the Governor General in Council may, by notification in the Gazette of India, declare to be a general lighthouse for the purposes of this Act ;
- (d) "lighthouse" includes any light-vessel, fog-signal, buoy, beacon, or any mark, sign or apparatus exhibited or used for the guidance of ships ;
- (e) "local lighthouse" means any lighthouse which is not a general lighthouse ;
- (f) "local lighthouse authority" means a Local Government, local authority or other person having the superintendence and management of a local lighthouse ;
- (g) "owner" includes any part owner, charterer, or mortgagee in possession and any agent to whom a ship is consigned ;
- (h) "port" means any port, as defined in the Indian Ports Act, 1908,† to which that Act extends ; and
- (i) words and expressions used in this Act and not otherwise defined have the same meanings respectively as in the Indian Merchant Shipping Act, 1923.‡

**Clause (a).**—"We have amended the definition in sub-clause (a) in order to bring it into line with the wording of the Sea Customs Act, 1878".—*Report of the Select Committee.*

**Clause (b).**—"The general principles of the Bill are based on part XI of the Merchant Shipping Act, 1894, and the Merchant Shipping (Mercantile Marine Fund) Act, 1898, and parts of the existing Coast Lights Acts are also incorporated. "Light-house" is defined so as to include "any light vessel, fog signal, buoy, beacon, or any mark, sign or apparatus exhibited or used for the guidance of ships. This definition covers wireless beacons, wireless fogsignals and other direction-giving apparatus used for the guidance of ships".—*Statement of Objects and Reasons.*

**Clauses (c), (e) and (f).**—"All lighthouses will be classified as either—(a) coast or general lighthouses, or (b) port or local lighthouses. The superintendence and management of all general lighthouses will be vested in the Governor General in Council. Local lighthouses will be administered by a local lighthouse authority, which will usually be a port authority. Certain powers of inspection and control over local lighthouses are reserved to the Governor General in Council, as being the general lighthouse authority. Provision is also made for the management of general lighthouses by a local authority, or of local lighthouses by the Governor General in Council, by arrangement and on payment. This would be a matter of convenience and economy."—*Statement of Objects and Reasons.*

\* VIII of 1878.

† XV of 1908.

‡ XXI of 1923.

Appointment of officers.

**3.** The Governor General in Council may, by notification in the Gazette of India,—

- (a) define areas to be districts for the purposes of this Act ;
- (b) appoint a person to be the Superintendent of Lighthouses in each district ;
- (c) appoint a person to be the Chief Inspector of Lighthouses in British India ; and
- (d) appoint persons to be Inspectors of Lighthouses.

**Notes.**—"For the purposes of lighthouse administration, it is proposed that the coasts of India should be divided into districts, based on major ports. The Port-officer of the major port would be the Superintendent of lighthouses in the District and would be in executive control of the general lighthouse administration. For technical supervision, the Bill provides for the appointment of a Chief Inspector of Lighthouses in British India, and also for the appointment of District Inspectors, who would be engineers, with practical experience of lighthouse engineering."—*Statement of Objects and Reasons*

"We are of opinion that the administration and control of lighthouses would be more efficient if the technical staff of inspectors are placed at the disposal of the Chief Inspector of Lighthouses at his own headquarters, so that he will be in a position to send the most suitable man for a particular piece of work, and to concentrate his staff when required. For this purpose, it is suggested that the District Inspectors should be called 'Inspectors' and their powers should not be confined to a particular District. We have amended clause 3 accordingly, and have made consequential amendments in clauses 6 and 21. As regards the personnel of the staff, and of the expert mechanics under them, it may be found necessary to begin with to recruit them from England, but the committee recommends to Government that an Indian personnel should be trained in the special work as quickly as possible so as to fit them for these posts."—*Report of the Select Committee.*

Advisory Committees.

**4.** (1) The Governor General in Council shall appoint a Central Advisory Committee and shall consult it in regard to—

- (a) the erection or position of lighthouses or of any works appertaining thereto ;
- (b) additions to, or the alterations or removal of, lighthouses ;
- (c) the variation of the character of any lighthouse or of the mode of use thereof ;
- (d) the cost of any proposals relating to lighthouses ; or
- (e) the making or alteration of any rules or rates of dues under this Act.

(2) The Governor General in Council may, if he thinks fit, appoint an Advisory Committee for any district for the purpose of advising in regard to any of the matters specified in sub-section (1) in so far as the interests of the district are affected thereby.

(3) Advisory Committees shall consist of persons representing interests affected by this Act or having special knowledge of the subject-matter thereof.

**Notes.**—"Sub-clause (1) as drafted would make it optional on the Governor General in Council to consult the Central Advisory Committee, and, as we understand that it is the Governor General in Councils' intention invariably to consult the committee on matters specified in this sub-clause, we have made an amendment to give effect to the real intention. The question of inserting a provision requiring that the advice of the Central Advisory Committee should always be accepted was discussed, and we strongly recommend to Government that its advice should in all ordinary cases be accepted. As regards the constitution of the Central Advisory Committee, we recommend that the member in charge of commerce should be the

chairman, and the committee should include representations of the following interests :—

- (1) The Royal Indian Marine (or Royal Indian Navy),
- (2) Shipping registered in India, and
- (3) Commerce, both British and Indian, which should each be represented by an equal number of members, appointed after consultation with the commercial bodies concerned."—*Report of the Select Committee.*

#### GENERAL LIGHTHOUSES.

Management of general lighthouses by the Governor General in Council and delegation of management.

**5.** (1) The superintendence and management of all general lighthouses are vested in the Governor General in Council.

(2) The Governor General in Council may require any local lighthouse authority to undertake the superintendence and management of any general lighthouse situated in or adjacent to the local limits within which the authority exercises its powers, and shall pay to the authority such sums to defray the cost of superintendence and management as he may determine

**Notes.**—"The superintendence and management of all general lighthouses will be vested in the Governor General in Council. Local lighthouses will be administered by a local lighthouse authority which will usually be a port authority. Certain powers of inspection and control over local lighthouses are reserved to the Governor General in Council, as being the general light house authority. Provision is also made for the management of general light houses by a local authority, or of local light houses by the Governor General in Council, by arrangement and on payment. This would be a matter of convenience and economy."—*Statement of Objects and Reasons.*

#### LOCAL LIGHTHOUSES.

**6.** (1) The Chief Inspector of Lighthouses may, at any time, and any Superintendent or Inspector of Lighthouses may, if authorised in this behalf by a general or special order in writing of the Governor General in Council, enter upon and inspect any local lighthouse and make such inquiries in respect thereof or of the management thereof as he thinks fit.

Power to inspect local lighthouses.

(2) Every person having the charge of or concerned in the management of, any lighthouse shall be bound to furnish to any officer authorized by or under sub-section (1) to inspect the lighthouse all such information regarding the same as the officer may require.

(3) Every local lighthouse authority shall furnish to the Governor General in Council all such returns and other information in respect of the lighthouses under its supervision and management, or of any of them, as he may require.

**Notes.**—"We are of opinion that the administration and control of lighthouses would be more efficient if the technical staff of inspectors were placed at the disposal of the Chief Inspector of Lighthouses at his own head quarters so that he will be in a position to send the most suitable man for a particular piece of work, and to concentrate his staff where required for this purpose, it is suggested that the District Inspectors should be called 'Inspectors' and that their powers should not be confined to a particular District. We have amended clause (3) accordingly and have made consequential amendments in clauses 6 and 21."—*Statement of Objects and Reasons.*

**7** (1) If, after an inspection under section 6 or such other inquiry as he thinks fit, the Governor General in Council is satisfied that a direction under this sub-section is necessary or expedient for the safety, or otherwise in the interests, of shipping, he may direct any local lighthouse authority—

Control of local lighthouses by the Governor General in Council.



(a) to remove or discontinue or to refrain from moving or discontinuing any lighthouse under its superintendence and management or to make or refrain from making any variation in the character or mode of use of any such lighthouse, or

(b) to erect, place or maintain, or to refrain from erecting, placing or maintaining, any lighthouse within the local limits within which the local lighthouse authority exercises its powers.

(2) A local lighthouse authority shall not erect, place, remove or discontinue any lighthouse or vary the character or mode of use of any lighthouse, unless it has given to the Governor General in Council at least one month's notice in writing of its intention so to do :

Provided that, in cases of emergency, a local lighthouse authority may take such action as it deems necessary and shall give immediate notice of the same to the Governor General in Council and, so far as is possible, to all shipping approaching or in the vicinity of the lighthouse.

(3) If a local lighthouse authority—

(a) fails to comply with any direction made under sub section (1), or

(b) fails to exercise or perform, or exercises or performs in an improper, inefficient or unsuitable manner, any power or duty relating to the superintendence or management of lighthouses conferred or imposed upon it by or under any law for the time being in force, or

(c) fails to make adequate financial provision for the performance of any such duty,

the Governor General in Council may, by order in writing, require the local lighthouse authority to comply with the direction, or to make arrangements to his satisfaction for the proper exercise of the power or performance of the duty, or to make financial provision to his satisfaction for the performance of the duty, as the case may be, within such period as he may specify.

(4) If the local lighthouse authority fails to comply with an order made under sub-section (3) within the specified period or within such further time as the Governor General in Council may allow, the Governor General in Council may exercise the power or perform the duty or make the requisite financial provision, as the case may be, and the local lighthouse authority shall be liable to repay to the Governor General in Council any expenditure incurred by him in so doing.

**Notes.**—"Certain powers of inspection and control over local lighthouses are reserved to the Governor General in Council, as being the general lighthouse authority. Provision is also made for the management of general lighthouses by a local authority, or of local lighthouses by the Governor General in Council, by arrangement and on payment. This would be a matter of convenience and economy.

"The powers taken in clauses 6 and 7 of the Bill for the inspection and control of the local lighthouses follow generally the powers of general lighthouse authorities in sections 652 and 653 of the Merchant Shipping Act, 1894. In the United Kingdom, however, a local lighthouse authority cannot erect or remove any lighthouse, buoy or beacon or vary its character without the previous sanction of the general lighthouse authority. But the control of the general lighthouse authorities in the United Kingdom is much closer than is possible or desirable in a country of great distances like India. The Bill, therefore, only requires that one month's previous notice should be given to the Governor General in Council, and also empowers the local lighthouse authority to take immediate action, without previous notice, in cases of emergency.

"Statutory power to inspect a local lighthouse is vested only in the Chief Inspector of Lighthouses. No Superintendent or, District Inspector may inspect without the order in writing of the Governor General in Council.

"The Bill further provides that a direction by the Governor General in Council, under clause 7 shall only be made after inspection or such other inquiry as he thinks fit, when he is satisfied that it is necessary for the safety, or otherwise in the interest, of shipping."—*Statements of Objects and Reasons.*

**8. The Governor General in Council may, at the request of a local lighthouse authority, undertake the superintendence and management of any local lighthouse on its behalf, and the local lighthouse authority shall pay to the Governor General in Council such sums to defray the cost of superintendence and management as may be agreed.**

Management of local lighthouses by the Governor General in Council,

**Notes.**—"Provision is also made for the management of general lighthouses by a local authority, or of local lighthouses by the Governor General in Council, by arrangement and on payment. This would be a matter of convenience and economy."—*Statement of Objects and Reasons.*

#### LIGHT-DUES.

**9. For the purpose of providing or maintaining or of providing and maintaining lighthouses for the benefit of ships voyaging to or from British India or between ports in British India, the Governor General in Council shall, subject to the provisions of this Act, cause light-dues to be levied and collected in respect of every ship arriving at or departing from any port in British India.**

Levy and collection of light-dues.

**Notes.**—The cost of local lighthouses will ordinarily be met, as at present, from port dues levied under the Indian Ports Act, 1908. But clause 9 of the Bill permits receipts from light—dues to be used "for the purpose of providing or maintaining light houses ... for the benefit of ships voyaging to or from British India or between ports in British India." And grants from the light dues may be given for the provision or maintenance of local lighthouses which are also used as marks by passing trade.—*Statement of Objects and Reasons.*

**10. (1) The Governor General in Council may, by notification in the Gazette of India, prescribe rates, not exceeding two annas per ton, at which light dues shall be payable, and may prescribe different rates for different classes of ships, or for ships of the same class when in use for different purposes or in different circumstances.**

**(2) Light-dues payable in respect of a ship shall be paid by the owner or master of the ship on its arrival at, and on its departure from, any port in British India :**

Provided that, if light-dues have been paid in accordance with the provisions of this Act in respect of any ship, no further dues shall become payable in respect of that ship for a period of thirty days from the date on which the dues so paid became payable.

**(3) An order under sub-section (1) imposing, abolishing or varying light-dues shall not take effect till the expiration of thirty days from the day on which the order was notified in the Gazette of India.**

**Different rates.**—As regards why different rates for different classes of ships should be imposed the following observations of the Select Committee is important :—"The difficulties connected with the port of Aden were discussed. One class of cases is that of ships trading to Australia, East Africa and elsewhere, which do not touch at Aden. It is reasonable that these ships should contribute something to the cost of the Indian lighthouse administration, for they use lights which will be provided and

maintained from Indian light dues. But it is undesirable that the dues should be so much as to cause ships to pass by or divest them to other ports of call. Another class is that of ships sailing from the United Kingdom which touch at Aden and then proceed to Calcutta or some port in India, and then return on their homeward voyage. Here again if full light dues are levied at Aden, the thirty days allowed will be largely consumed in the two long ocean voyages from Aden to the nearest point on the Indian coast and back again.

"Other difficulties can be imagined, and they are likely to be so numerous that it is inexpedient to attempt to make specific provision for them in the Statute. They can all be met by an exercise of the powers of the Governor General in Council proposed in clause 18 of the Bill, which confers a wide discretion to exempt ships, classes of ships and ships performing specified voyages from the whole or part of the light dues payable. We are assured that the Government will consider the recommendations of the Central Advisory Committee in all such cases."

"Clause 10 of the Bill provides that every ship arriving at or departing from a port in British India shall pay a light due, not exceeding two annas per net registered ton, subject to a periodical limit of thirty days. Different rates may be prescribed for different classes of ships."—*Statement of Objects and Reasons.*

**Notes.**—In sub-clause (2) we have made a small amendment in order to give greater precision to the date from which the period of thirty days shall run in the case of dues paid on departure. We have also added a third sub-clause which will provide that foreign shipping will have notice of any alteration in the scale of light dues."—*Report of the Select Committee.*

**11.** Light-dues shall be paid to the Customs-collector who shall grant Receipts for light-dues. to the person paying the same a receipt in writing specifying—

- (a) the port at which the dues have been paid ;
- (b) the amount of the payment ;
- (c) the date on which the dues became payable ; and
- (d) the name, tonnage and other proper description of the ship in respect of which the payment is made.

**12.** (1) For the purpose of the levy of light-dues, a ship's tonnage shall be reckoned as under the Merchant Shipping Acts for dues payable on a ship's tonnage, with the addition required under section 85 of the Merchant Shipping Act, 1894,\* with respect to deck cargo.

(2) In order to ascertain the tonnage of any ship for purpose of levying light-dues, the Customs-collector may—

- (a) if the ship is registered under any law for the time being in force in British India or under the law of any foreign country in respect of which an Order in Council has been made under section 84 of the Merchant Shipping Act, 1894,\* that ships of that country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers (any such ship being hereafter in this section referred to as a registered ship), require the owner or master or other person having possession of the ship's register or other papers denoting her tonnage to produce the same for inspection and, if such owner, master or other person refuses or neglects to produce the register or papers, as the case may be, or otherwise to satisfy the Customs-collector as to the tonnage of the ship, cause the ship to be measured and the tonnage to be ascertained ; or

\* 57 & 58 Vict., c. 60.

(b) if the ship is not a registered ship and the owner or master fails to satisfy the Customs-collector as to the true tonnage thereof according to the mode of measurement prescribed by the law for the time being in force for regulating the measurement of registered ships, cause the ship to be measured and the tonnage thereof to be ascertained according to such mode.

(3) If any person refuses or neglects to produce any register or other papers or otherwise to satisfy the Customs-collector as to the true tonnage of any ship when required to do so under this section, such person shall be liable to pay the expenses of the measurement of the ship and of the ascertainment of the tonnage, and, if the ship is a registered ship, shall further, on conviction by a Presidency Magistrate or Magistrate of the first class having jurisdiction in the port where the ship lies or in any port to which she may proceed, be punishable with fine which may extend to one thousand rupees.

**Notes.**—The insertion proposed in sub-clause (3) is to secure that these mercantile cases shall be tried by experienced Magistrates.—*Statement of Objects and Reasons.*

**13.** (1) If the owner or master of any ship refuses or neglects to pay to the Customs-collector on demand the amount of any light-dues or expenses payable under this Act in respect of the ship, the Customs-collector may seize the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of the dues or expenses, together with the costs of the seizure and detention, is paid.

(2) If any part of such dues, expenses or costs remains unpaid after the expiry of five days following the date of the seizure, the Customs-collector may cause the ship or other thing seized to be sold, and with the proceeds of the sale may satisfy the dues, expenses or costs remaining unpaid, together with the costs of the sale, and shall repay the surplus, if any, to the person by whom the same were payable.

**Notes.**—This section authorises the Customs Collector to seize and detain ships, etc., for payment of light dues. If the light dues be not paid after the expiry of five days following the date of the seizure, the Customs Collector may realise the light dues and cost by selling the ship. The purchaser will acquire a good title in the ship.

**14.** The officer whose duty it is to grant a port-clearance for any ship shall not grant the port-clearance until the amount of all light-dues, expenses and costs payable in respect of the ship under this Act and of any fines imposed thereunder has been paid, or until security for the payment thereof has been given to his satisfaction.

**Notes.**—The right of the Government is safeguarded so far as the collection of the light dues are concerned. A grant of port-clearance is forbidden where the ships are trying to evade the payment of light dues.

**15.** If any dispute arises as to whether light-dues, expenses or costs are payable in respect of any ship under this Act or as to the amount of such dues, expenses or costs, the dispute shall, on application made in this behalf by either of the disputing parties, be heard and determined by a Presidency Magistrate or Magistrate of the first class having jurisdiction at the place where the dispute arises, and the decision of such Magistrate shall be final.

**Notes.**—Such disputes must be decided by experienced Magistrates, such as Presidency Magistrate or Magistrate of the First-class.

**16. (1)** If the master of any ship in respect of which any light-dues are payable at any port causes the ship to leave such port without having paid the same, the Customs-collector at that port may by writing require the Customs-collector at any other port in British India to which the ship may proceed or in which she may be to recover the dues remaining unpaid.

Light-dues payable at one port recoverable at another.

(2) Any Customs-collector to whom such a requisition is directed shall proceed to levy such sum as if it were payable under this Act at the port at which he is the Customs-collector, and a certificate by the Customs-collector at the port at which the light-dues first became payable, stating the amount payable, shall be sufficient proof in any proceeding under section 13 or section 15 that such amount is payable.

**Notes.**—This facility is given for the collection of light dues. The light dues may be recovered at the next port.

**17. (1)** If the owner or master of a ship evades or attempts to evade the payment of any light-dues, expenses or costs payable in respect of the ship under this Act, he shall, on conviction by a Presidency Magistrate or Magistrate of the first class having jurisdiction in any port to which the vessel may proceed or in which she may be found, be punishable with fine which may extend to five times the amount of the sum payable.

Penalty for evading payment of light-dues.

(2) In any proceeding before a Magistrate in a prosecution under sub-section (1), any such certificate as is mentioned in sub-section (2) of section 16, stating that the owner or master has evaded such payment, shall be sufficient proof of the evasion, unless the owner or master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable grounds for such departure.

**Notes.**—Evasion of payment on the part of the shipowner is made penal under this section. A certificate under sub-section (2) of section 16 will be sufficient proof of such evasion. The burden of proof is cast upon the master or the owner of the ship to show that the vessel was compelled to leave the port before payment of light dues, by reason of stress of water, etc.

Exemption from payment of light-dues.

**18.** The following ships shall be exempted from the payment of light dues under this Act, namely :—

(a) any ship belonging to His Majesty or the Government or to a foreign Prince or State and not carrying cargo or passengers for freight or fares ; and

(b) any ship of a tonnage of less than fifty tons ; and the Governor General in Council may, by notification in the Gazette of India, exempt any other ships, or classes of ships or ships performing specified voyages from such payment, either wholly or to such extent only as may be specified in the notification

**Notes.**—Originally it was the intention of the Legislature to exempt ships altogether, which were less than thirty tons.—*Statement of Objects and Reasons.* But the *Select Committee* substituted the words "fifty tons" for "thirty tons" on the ground that at the time of passing the bill in Burma ships up to fifty tons tonnage were exempted from the payment of light dues. That exemption was extended to the whole of British India. *Vide the Report of the Select Committee.* This section also empowers the Governor General in Council by notification to exempt any ships or classes of ships or ships performing specified voyages from payment of dues either wholly or in part.—*Statement of Objects and Reasons.*

**19.** Where light dues have been paid in respect of any ship in excess of the amount payable under this Act, no claim to refund of such excess payment shall be admissible, unless it is made within six months from the date of each payment.

Refund of excess payments.

**Notes.**—This section lays down the time-limit of claiming the refund of any excess payment of light dues. In the original Bill the time limit was only three months. But the Select Committee increased the period of three months to six months in order to meet the case of long voyages.

#### ACCOUNTS.

**20.** (1) The Governor General in Council shall cause to be maintained a separate account of all amounts received by way of light-dues, expenses, costs and fines under this Act and of all expenditure incurred for the purposes of this Act, and shall cause such account to be laid before the Central Advisory Committee as soon as possible after the close of each financial year.

Accounts, etc.

(2) The Governor General in Council shall cause to be laid before the Central Advisory Committee before the close of each financial year a statement of the estimated receipts under, and expenditure for the purposes of, this Act during the forthcoming year.

**Notes.**—"We have not amended this clause, but we have recorded our recommendation that any surplus to the credit of the light-house account should be definitely ear-marked for the purpose of light-house administration, and should not be appropriated for any other purpose. This, we consider, is the intention of clause 9 read with clause 20."—*Report of the Select Committee.*

#### RULES.

**21.** (1) The Governor General in Council may make rules consistent with this Act to carry into effect the purposes thereof.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the powers and duties of the Chief Inspector of Lighthouses and of Superintendents and Inspectors of Lighthouses ;
- (b) the procedure and conduct of business of Advisory Committees constituted under this Act ;
- (c) the rate of travelling and subsistence allowance payable to members of Advisory Committees ; and
- (d) the period in respect of which and the form in which the separate account referred to in sub-section (1) of section 20 shall be kept and the forms in which that account and the statement referred to in sub-section (2) of that section shall respectively be presented to the Central Advisory Committee.

**Notes.**—The rules must not contravene the provisions of any of the foregoing sections.

#### REPEALS.

**22.** The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeals.

**Notes.**—Where an Act repealing, in whole or in part, a former Act, is itself repealed, the last repeal does not revive the Act or provisions before repealed, unless words be added reviving them.—*Maxwell p. 728.*

## THE SCHEDULE.

*See section 22.*

## ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of Repeal.
1879 ...	IX	The Burma Coast-lights Act, 1879 ...	The whole.
1904 ...	IX	The Madras Coast-lights Act, 1904 ...	Do.
1915 ...	II	The Sind Coast-lights Act, 1915 ...	Do.

## ACT NO. XVIII OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 21st September 1927.)***An Act further to amend the Indian Succession Act, 1925, and the Married Women's Property Act, 1874.**

WHEREAS it is expedient further to amend the Indian Succession Act, 1925\* and the Married Women's Property Act, 1874,† for the purposes herein-after appearing ; It is hereby enacted as follows :—

**Notes.**—"As a result of judgment in the Bombay High Court that Court drew attention to the advisability of altering sections 183 and 189 of the Indian Succession Act, 1865, so as to make the consent of the husband unnecessary before the grant of probate or letters of administration to a married woman, and drew attention to the provisions of sections 8 and 13 of the Probate and Administration Act, 1881. In the Indian Succession Act, 1925, which is a consolidating Act, the provisions of sections 183 and 189 of the Indian Succession Act, 1865 and of sections 8 and 13 of the Probate and Administration Act, 1881, have been reproduced in sections 223 and 226."—*Statement of Objects and Reasons.*

Short title.

**1. This Act may be called the Indian Succession (Amendment) Act, 1927.**

**Notes.**—Although the Act relates to the administration by a married woman, yet it has been entitled as the Indian Succession (Amendment) Act, 1927 on the ground that the Act mainly relates to administration of the estate of a deceased person by a married woman.

**2. In sections 223 and 236 of the Indian Succession Act, 1925,\* the words**  
 Amendment of sections "nor unless the deceased was a Hindu, Muhammadan,  
 223 and 236, Act XXXIX Buddhist, Sikh or Jaina or an exempted person, to a  
 of 1925. married woman without the previous consent of her  
 husband" shall be omitted.

**Section 223.**—This section was the section 183 of the Indian Succession Act, of 1865. That section was based on English law as it then existed. Originally a married woman according to English law could not take upon herself the office of executrix without her husband's consent. *In Bonis Ayers*, 8 P. D. 168 ; but see *in the*

\* XXXIX of 1925.

† III of 1874.

case of goods of Andrew P. Johnson, reported in Hudson 254, where it was held that the husband's consent was not necessary where the executrix was residing in England and administration was granted to her attorney. Since 1882, however, the law in England has considerably changed and the consent of a husband is no longer necessary. "It is desirable to bring the Indian law into conformity with English law, and amendments of sections 223 and 236 of the Indian Succession Act with this object are accordingly proposed."—*Statement of Objects and Reasons*.

**Section 236.**—In England before the Married Women's Property Act, 1882, came into operation, where the administratrix was a married woman her husband was required to join in the administration bond. *In the goods of Southerland*, 4 S. & T. 189. For that reason amongst others, a married woman could not be appointed administratrix without her husband's consent. Since the Act of 1882 the husband's concurrence is no longer required even in England. The married woman alone executes the bond, nor can her husband execute it on her behalf. He may however, become a surety. *In the goods of Ayres*, 8 P. D. 168.—*Mortimer on Pro. Prac.* 462. The Indian law has now been brought into conformity with English law.

**3.** After section 9 of the Married Women's Property Act, 1874\* the following heading and section shall be inserted, namely:—  
Insertion of new section  
10 in Act III of 1874.

"VI.—*Husband's liability for Wife's breach of trust or devastation.*

**10.** Where a woman is a trustee, executrix or administratrix, either before or after marriage, her husband shall not, unless he acts or intermeddles in the trust or administration, be liable for any breach of trust committed by her, or for any misapplication, loss or damage to the estate of the deceased caused or made by her, or for any loss to such estate arising from her neglect to get in any part of the property of the deceased."

**Notes.**—"In English law there is a provision that a husband is not liable for any breach of trust, loss or misapplication committed by any woman as a trustee, executrix or administratrix unless he has acted or intermeddled in the trust or administration. It is desirable that in this respect also Indian law shall be brought into line with English law, and a new section is therefore proposed to be added to the Married Women's Property Act, 1874"—*Statement of Objects and Reasons*.

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\* III of 1874.



# ACT NO. XIX OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 21st September, 1927)

## An Act further to amend the Presidency-towns Insolvency Act, 1909 for certain purposes.

WHEREAS it is expedient further to amend the Presidency-towns Insolvency Act, 1909\* for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Presidency-towns Insolvency (Amendment) Act, 1927.

2. To section 7 of the Presidency-towns Insolvency Act, 1909 (hereinafter Amendment section 7 Act referred to as the said Act), the following proviso shall III of 1909. be added, namely :—

“ Provided that, unless all the parties otherwise agree, the power hereby given shall, for the purpose of deciding any matter arising under section 36, be exercised only in the manner and to the extent provided in that section.”

**Notes.**—Section 7 of the Presidency Towns Insolvency Act 1909 (III of 1909), gives the Insolvency Court subject to the provisions of the Act, full power “ to decide all questions of priorities, and all other questions whatsoever, whether of law or fact which may arise in any case of insolvency coming within the cognisance of the Court, or which the Court may deem it expedient or necessary to decide for all the purpose of doing complete justice or making a complete distribution of property in such case.” Section 36 empowers the Court *inter alia* to summon before it any person “ supposed to be indebted to the insolvent,” and to require such person to produce before it any documents in his custody or power relating to the insolvent, his dealings or property. If on such examination of such person, the Court is satisfied that he is indebted to the insolvent, it may, on the application of the official assignee realise the amount in which he is indebted. This section taken alone does not empower a Court to enquire into and decide a claim which the alleged debtor does not admit.

“ The two sections are to some extent opposed to each other and the practice of the Courts as a result is not uniform. The Calcutta High Court gives the greater weight to section 36 on matters coming within the scope of that section, and realises debts from debtors of the insolvent only when those debts are admitted.”—*Statement of Objects and Reasons*. In *Lucas J. M. In re*, 28 Ind. Cas. 469=42 C. 109, *Chitty J. said*, “ Section 36, clauses 4 and 5 of the Presidency Towns Insolvency Act, 1909, provides summary procedure in cases where there is no dispute, it is not intended for contentious matters or for following property the subject of fraudulent preference or dishonest concealment.” See also 88 Ind. Cas. 77=27 Bom. L. R. 551.

“ The Madras High Court, on the other hand gives greater weight to section 7 and decides, as part of the insolvency proceeding, disputes between the Official Assignee and alleged debtors of the insolvent.” *Statement of Objects and Reasons*. In 36 Ind. Cas. 524=40 M. 810, the Madras High Court observe that “ section 36 of the Act only provides a summary procedure in cases where there is no dispute, but that does not necessarily exclude the jurisdiction of the Insolvency Court to deal with cases of disputed title. Only in cases of the latter class the ordinary procedure is to be followed.” According to that High Court section 36 of the Act does not control the language of section 7, but provides a special and summary remedy in certain cases. *Ibid*; see also 35 B. 473=12 Ind. Cas. 1; 40 M. 1173=44 Ind. Cas. 847; 65 Ind. Cas. 244=42 M. L. J. 141; 79 Ind. Cas. 910=1925 Mad. 141.

\* III of 1909.

The Civil Justice committee discussed the matter in paragraph 29 of Chapter XIV of their Report (page 241). It is considered expedient to amend the Act so as to secure uniformity of practice, and references to the various High Courts have shown that the Calcutta practice is generally preferred. Section 2 and 4 of the Act secure that this practice shall be generally followed and are designed to remove the opposition between section 7 and section 36 by providing that the latter section shall prevail in matters falling within its scope. The amendments are so drafted that they will not prevent the Court from deciding a dispute between the parties concerned if they submit themselves to its jurisdiction—*Statement of Objects and Reasons*.

**3.** After sub-section (2) of section 15 of the said Act, the following sub-section shall be added, namely :—

- “(3) On the marking of the order admitting his petition, a debtor shall—  
 (a) unless the Court otherwise directs, produce all his books of account, and  
 (b) file such lists of creditors and debtors and afford such assistance to the Court as may be prescribed,  
 failing which the Court may dismiss his petition.”

**Notes.**—Under section 15 an order should be made in the ordinary course unless the Court is convinced that there has been an abuse of process. 18 Ind. Cas. 544. After a debtor is adjudicated an insolvent he can not withdraw even with the leave of the Court. 90 Ind. Cas. 969=3 Rang. 318; see also 38 B. 200. This sub-section (3) provides that after his petition is admitted the petitioner must produce all his books of accounts and file such lists of creditors and debtors and afford such assistance to the Court as may be prescribed.

**4.** In sub-sections (4) and (5) of section 36 of the said Act, for the words “If, on the examination of any such person, the Court is satisfied,” the words “If on his examination any such person admits” shall be substituted

Amendment of section 36,  
Act III of 1909.

**Notes.**—“The amendments to section 36 also help to make the position clear, and bring the wording of that section into line with section 25 of the English Bankruptcy Act.”—*Statement of Objects and Reasons*. Section 36 (4) (5) is intended to provide a summary procedure for ordinary payments of debts due and delivery of property of the insolvent when there is no dispute. 42 C 109; 27 Bom. L. R. 551=88 Ind. Cas. 77; see also 30 C. W. N. 346=93 Ind. Cas. 834=A. I. R. 1926 Cal. 597.

**5.** After clause (k) of sub section (2) of section 112 of the said Act, the following clause shall be inserted, namely :—

Amendment of section  
112, Act III of 1909.

- “(k) filing of lists of creditors and debtors and the affording of assistance to the Court by a petitioning debtor.”

**Notes.**—“Further under section 112 of the Act, the Bombay and Rangoon High Courts have made rules under which every debtor who files a petition for adjudication as an insolvent is obliged to lodge forthwith in the office of the Official Assignee all books, papers, writings, accounts, and vouchers relating to his estate with a list thereof signed by himself, and also a statement of his moveable and immoveable estates. The Calcutta High Court has, as a matter of practice but without making any rules, similarly required such a petitioner, except when very special reasons to the contrary were shown to exist, to lodge his books of account, explain his position of his affairs to the Official Assignee, and furnish a list of names and addresses of all debtors and creditors and before the passing of an adjudication order. This practice has been declared to be *ultra vires* in a judicial decision of that Court, and as the legality of the rules framed by the other High Courts in this matter might also be successfully challenged, it is proposed to amend sections 15 and 112 of the Act in the manner indicated in the Bill. Clauses 3 and 5 are intended to give effect to this proposal.”—*Statement of Objects and Reasons*.

## ACT NO. XX OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 21st September, 1927.)

### An Act to amend the law relating to the fostering and development of the bamboo paper industry in British India.

WHEREAS it is expedient to amend the law relating to the fostering and development of the bamboo paper industry in British India : It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bamboo Paper Industry (Protection) Act, 1927.

Amendment of Act VIII of 1894.

2. (1) In the Second Schedule to the Indian Tariff Act, 1894,\* there shall be made the amendments specified in the Schedule to this Act.

(2) The amendments made by sub-section (1) shall have effect up to the 31st day of March, 1932.

**Notes.**—"The Bill amends in three respects the Bamboo Paper Industry (Protection) Act, 1925, which added entries 155 and 156 in the Import Tariff Schedule (Schedule II of the Indian Tariff Act, 1894). "First by, entry 155 a protective duty of one anna per pound was imposed on printing paper containing less than 65 per cent or more mechanical pulp, the intention being to include 'news print' (which contains 65 per cent or more of mechanical pulp) from protective duty, and leave it under the revenue duty of 15 per cent *ad valorem*. It has recently been held, however, that entry 155, as worded, excludes, from the protective duty not only "news print" as defined by the Tariff Board, but also paper containing no mechanical wood pulp at all. The effect is that the protective duty does not apply to a class of imported paper manufactured in India particularly competes, and to this extent the Act fails of its included purpose. "The Bill therefore, makes printing paper containing no mechanical wood pulp liable to protective duty of one anna per pound, with retrospective effect from 21st September, 1925, the date on which the Bamboo Paper Industry (Protection) Act became law.

"The Bill also empowers the Governor General in Council to recover the difference between the protective duty and the duty of 15 per cent *ad valorem* in the case of all paper containing no mechanical wood pulp on which duty has been paid at 15 per cent *ad valorem* only, and which was imported between the 21st September, 1925, and the date on which this Bill becomes law.

"Secondly, for more than a year after the passing of the Act, the customs authorities calculated the percentage of mechanical wood pulp mentioned in entry 155 on the fibre content of the paper ; but in January, 1927, it was held that the entry, as worded, required that the percentage should be calculated on the *total weight* of the paper, including 'loading'. It was represented by importers that the effect of this interpretation was to bring within the scope of the protective duty large quantities of imported a news print' which it was the intention of the legislature to exclude, and the Tariff Board was, therefore, asked to report whether any, and if so what, changes were desirable in those entries in Tariff Schedule which regulates the duty payable on news print."

3. Printing paper (excluding chrome, marble, flint, poster and stereo), containing no mechanical wood pulp, on which a duty has been paid at 15 per cent. *ad valorem* under item No. 99 of Schedule II to the Indian Tariff Act, 1894,\*

Retrospective effect in certain cases.

\* VIII of 1894.

between the 21st of September, 1925, and the commencement of this Act, shall be deemed to have been liable to pay duty at one anna per pound under item No. 155 of that Schedule; and any deficiency between the duty which has been paid on such paper and the duty hereby made payable shall be deemed to be duty short-levied within the meaning of section 39 of the Sea Customs Act, 1878,\* and that Act shall apply accordingly.

**Notes.**—Vide notes under Section 2.

Amendment of Act XXV of 1925.

**4.** The second item of the Schedule to the Bamboo Paper Industry (Protection) Act, 1925,† is hereby repealed.

**Notes.**—The second item of the schedule to the Bamboo Paper Industry (Protection) Act, 1925 is repealed by this section and for items Nos. 155 and 156, items mentioned in the schedule will be substituted.

## THE SCHEDULE.

### AMENDMENTS TO BE MADE IN SCHEDULE II TO THE INDIAN TARIFF ACT, 1894.

*See section 2.*

For Items Nos. 155 and 156, the following shall be substituted, namely:—

" 155	Printing Paper (excluding chrome, marble, flint, poster and stereo), all sorts which contain no mechanical wood pulp or in which the mechanical wood pulp amounts to less than 65 per cent. of the fibre content.	Pound	One anna.
156	Writing Paper —  (a) Ruled or printed forms (including letter paper with printed headings) and account and manuscript books and the binding thereof.	Pound	One anna or 15 per cent. <i>ad valorem</i> , whichever is higher.
	1 (b) All other sorts	Pound	One anna.

**Notes.**—The Board has recommended that entry 155 should be amended so as to make it clear that the percentage is to be calculated on the fibre content and not on the total weight. The effect will be to exclude from the operation of the protective duty certain classes of news print which were actually excluded up to January, 1927, but have since been included. The Bill gives effect to the Tariff Board's recommendation.

"Thirdly, by entry 156 a protective duty of one anna per pound was imposed on writing paper, including ruled or printed forms and account and manuscript books and the binding thereof. It has been represented that this protective duty is in some cases substantially less than the former revenue duty of 15 per cent *ad valorem*. Thus the Act is not only causing an unnecessary loss of revenue, but is also depriving the printing trade in India of the tariff assistance which it previously enjoyed. This Bill, therefore, amends entry 156 so as to make the duty one anna per pound or 15 per cent *ad valorem*, whichever is higher."—*Statement of Objects and Reasons.*

# ACT NO. XXI OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 21st September 1927.)

## An Act to amend the Indian Securities Act, 1920, for certain purposes.

WHEREAS it is expedient to amend the Indian Securities Act, 1920,\* for certain purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Securities (Amendment) Act, 1927.

**Notes.**—The object of the Bill is to limit the liability of Government in respect of discharged loans and to prevent recourse to the Indian Succession Act, 1925, to evade the safe guards attached by the Indian Securities Act, 1920, to the issue of duplicate notes.—*Statement of Objects and Reasons.*

2. (1) In sub-section (1) of section 10 of the Indian Securities Act, 1920\* (hereinafter referred to as the said Act), after the word "lost" in both places where it occurs the word "stolen" shall be inserted, and after the word "loss" in both places where it occurs the word "theft" shall be inserted; and in sub-section (2) of the same section after the word "loss" the word "theft" shall be inserted.

(2) To the same section after sub-section (3), the following sub-section shall be added, namely:—

"(4) If at any time before the Government becomes discharged under the provisions of this Act from liability in respect of any security the whole of which is alleged to have been lost, stolen or destroyed, such security is found, any order passed in respect thereof under this section shall be cancelled."

**Clause (1).**—"Section 10 is incomplete at present as it does not deal with cases where securities have been stolen."—*Statement of Objects and Reasons.*

Insertion of new section  
r8A in Act X of 1920.

3. After section 18 of the said Act the following section shall be inserted, namely:—

"r8A. Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on any such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security."

**Notes.**—Under section 18 of the Act, Government remains liable to pay the principal as well as the interest on a discharged loan up to the date of the demand and it is optional with the owner of a Promissory Note to defer the demand as long as he pleases without entitling Government to plead limitation. The Bill proposes to remedy these defects by an amendment of the above sections of the Act.—*Statement of Objects and Reasons.*

## ACT NO. XXII OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 22nd September,  
1927.)

### An Act further to amend the Societies Registration Act, 1860, for certain purposes.

WHEREAS it is expedient further to amend the Societies Registration Act, 1860\* for certain purposes herein-after appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Societies Registration (Amendment) Act, 1927.

2. In the preamble to, and in section 20 of, the Societies Registration Act, 1860, \* after the words "the diffusion of useful knowledge" the words "the diffusion of political education" shall be inserted.

**Notes.**—"It is intended by this Bill to extend the scope of the Societies Registration Act, 1860, by making it applicable to some purposes which have been perhaps inadvertently omitted from section 20. It is believed that the Registrar of Societies under this Act has refused registration to a number of societies or associations who wished to be incorporated under the Act, on the ground that they were of a political character. In any case all doubt should be cleared up by the use of express words which may make such refusal impossible. There is no reason why the benefit of incorporation, and the legal status for all practical purposes conferred by such incorporation, should be denied even to political societies, in as much as the work and purpose of political education is certainly as useful and altruistic as any other mentioned in the Act. The wish for open registration and incorporation shown by any political institution should rather put a premium and not a discount upon the legal facilities which may be given of it. The present Act being enacted more than sixty years ago, political education may naturally have been then too negligible to be taken account of for the purpose of the Act. But there has been very considerable advance in this direction since then, and the antiquated provisions of the Act ought to be brought up to date."—*Statement of Objects and Reasons.*

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\* XXI of 1860.

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## ACT NO. XXIII OF 1927.

[ PASSED BY THE INDIAN LEGISLATURE. ]

(Received the assent of the Governor-General on the 22nd September, 1927.)

### An Act further to amend the Indian Tariff Act, 1894, in order to protect the manufacture of cotton yarn in British India.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894,\* in order to protect the cotton textile industry in British India against competition in cotton yarn produced under industrial conditions which enable such yarn to be produced at a cost below that at which it can be produced in British India ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Tariff (Cotton Yarn Amendment) Act, 1927 .

2. (1) In Item No. 44 of the Second Schedule to the Indian Tariff Act, 1894, \* after the figure and words " 5 per cent " the Amendment of Second Schedule to Act VIII of 1894 figure and words " or 1½ annas per pound, whichever is higher " shall be added.

(2) The amendment made by sub-section (1) shall have effect up to the 31st day of March, 1930.

Notes.—" The Tariff Board which was appointed to inquire into the depression in the cotton textile industry reported that, owing to the double shift working rendered possible by the night work of women, the Japanese mills producing cotton yarn possessed an unfair advantage over the Indian mills, and that this advantage amounted to 10 per cent. of the selling price at the time the Report was submitted. This advantage is only partially neutralised by the existing five per cent duty. In the opinion of the Board, the Japanese mills will retain their unfair advantage until June 30th, 1929, when the night work of women will be prohibited by law.

" More than half the total imports of yarn are of counts from 31 s. to 40 s. and about 80 per cent. of the imports of these counts are from Japan. The Board found that the unfair advantage of a mill spinning an average of 20 s. was 10 pies per pound if a reasonable return on capital was taken into account, and of a mill spinning an average of 32 s. 16.55 per pound. On the basis of these figures, a duty of one and a half annas a pound on counts from 31 s. to 40 s. and a duty of one anna a pound on lower counts would suffice to neutralise the unfair competition of the Japanese mills. The imports of counts of yarn below 31 s. are, however less than 5 per cent of the total imports, and for administrative reason is not considered advisable to vary the rate of duty according to the count. It is therefore, proposed in the Bill that up to the 31st March, 1930, the 5 per cent. duty on cotton yarn should be subject to a specific minimum of one and a half annas a pound. The effect will be that duty will be leviable on all imported cotton, unless the value exceeds Rs. 1-14-0 a pound, when the duty will be levied at five per cent *ad valorem*.

" For protective purpose, a specific duty is preferable to an *ad valorem* duty, the amount of which varies with the price and is highest when protection is least needed and lowest when the industry most requires assistance. It is for this reason that the specific minimum duty of one and a half annas a pound has been proposed and not over increased in the *ad valorem* rate."—*Statement of Objects and Reasons*.

Sub-section (2) of section (2)—"The night work of women in the Japanese mills will terminate, it is expected, on the 30th June, 1929, but yarn produced under double shift conditions will still be on the market for some months afterward. For this reason, it is proposed that the specific minimum duty should continue in force until the 31st March, 1930"—*Statement of Objects and Reasons*.

## ACT NO. XXIV OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

*Received the assent of the Governor General on the 22nd September 1927.)*

### An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894\*, in order to remove or reduce the customs duties on certain machinery and materials of industries; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1927.

(2) It shall come into force on the 1st day of October, 1927.

Amendment of the Second Schedule, Act VIII of 1894,

2. In the Second Schedule to the Indian Tariff Act, 1894\* there shall be made the amendments specified in the Schedule to this Act.

**Notes.**—The object of this Bill is to give effect to the decision of the Government of India to remove the import duties on certain machinery and mill stores as announced in paragraph 12 of their Resolution No. 341 T. (27) dated the 7th June, 1927, on the Report of the Tariff Board (Cotton Textile Industry Enquiry).—*Statement of Objects and Reasons.*

**Item 8 [18 A (2 & 3)].**—“We are unable to understand why the machines, apparatus and appliances operated by manual or animal labour should not have at least the same advantage, if not more, as those which are operated by electric, steam, water, fire or other power. To lay men like us, it looks unpardonable to place purely manual industry at a great disadvantage compared with the one carried on by the cheaper aids of refinement which a few urban localities alone can afford.”—*Minute of Dissent attached to the Report of the Select Committee.*

**Item 10 (43 A).**—“The introduction of cheap artificial silk yarn and thread aimed at by this amendment may, we are afraid, tell greatly on the indigenous silk industry, as well as the extent of cotton industry.”—*Minutes of Dissent.*

**The Act criticised.**—“The remissions of the customs duties on machinery and stores proposed in the Bill are intended, it is claimed, to give some relief to the mill industry; the loss of revenue involved is estimated to be Rs. 85 lakhs a year; only half of which will benefit the mill industry. We are of opinion that, unless a duty on foreign piece goods is imposed the indigenous textile industry cannot get any real protection, and as Government are tenciously holding out against recommendation of the Tariff Board in the interest of Lancashire, the proposed remission will really operate only as a relief of so much taxation. We do not think that the Indian Exchequer is overflowing with surplus money; and if it is, there are other claimants to relief, e.g., salt tax, postage, etc., which ought to have the priority against the proposed remissions which do not seem to press with equal security on those who import machinery and stores. We are, therefore, decidedly against so much loss of revenue unless we are satisfied that the Indian Industry secures effective protection in its present perilous position.”—*Minute of Dissent.*



## THE SCHEDULE.

(See section 2.)

1. In Item No. 1A, for the word and figures "No. 68" the words, letter and figures "Nos. 1B and 68" shall be substituted

2. After Item No. 1A, the following item shall be inserted, namely :—  
"1B | Sago flour."

3. After Item No. 6, the following heading and item shall be inserted, namely :—

"TALLOW, STEARINE AND WAX.

6A | Tallow."

4. After Item No. 8, the followidg item shall be inserted under the heading "MISCELLANEOUS," namely :—

"8A | China Clay."

5. After Item No. 13, the following item shall be inserted, namely :—  
"13A | Bleaching paste and bleaching powder."

6. After Item No. 14, the following item shall be inserted namely :—  
"14A | Magnesium chloride."

and Item No. 14A shall be renumbered 14B.

7. After Item No. 14B, the following heading and item shall be inserted, namely :—

"DYES AND COLOURS.

14C | Dyes derived from coal-tar and coal-tar derivatives used in any dyeing process.

8. After Item No. 18, the following heading and items shall be inserted, namely :—

"MACHINERY.

18A | MACHINERY, namely, such of the following articles as are not otherwise specified :—

- (1) prime-movers, boilers, locomotive engines and tenders for the same, portable engines (including power-driven road rollers, fire engines and tractors), and other machines in which the prime-mover is not separable from the operative parts ;
- (2) machines and sets of machines to be worked by electric, steam, water, fire or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts ;
- (3) apparatus and appliances, not to be operated by manual or animal labour, which are designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose ;
- (4) control gear, self-acting or otherwise, and transmission-gear designed for use with any machinery above specified, including belting of all materials and driving chains, but excluding driving ropes not made of cotton ;
- (5) bare hard-drawn electrolytic copper wires and cables and other electrical wires and cables, insulated or not ; and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof.

*Note.*—The term "industrial system" used in sub-clause (3) means an installation designed to be employed directly in the performance of any process or series of process necessary for the manufacture, production or extraction of any commodity.

18B The following TEXTILE MACHINERY AND APPARATUS by whatever power operated, namely, healds, heald cords and heald knitting needless; reeds and shuttles; warp and weft preparation machinery and looms; bobbins and pirns; dobbies; Jacquard machines; Jacquard harness linen cords; Jacquard cards; punching plates for Jacquard cards; warping mills; multiple box sleys; solid border sleys; tape sleys; swivel sleys; tape looms; wool carding machines; wool spinning machines; hosiery machinery; coir mat shearing machines; coir fibre willowing machines; heald knitting machines; dobby cards; lattices and lags for dobbies; wooden winders; silk looms; silk throwing and reeling machines; cotton yarn reeling machines; sizing machines; doubling machines; silk twisting machines; cone winding machines; piano card cutting machines; harness building frames; card lacing frames; drawing and denting hooks; sewing thread balls making machines; cumbl finishing machinery; hank boilers; cotton carding and spinning machines; mail eyes, lingoes, comber boards and comber board frames; take-up motions; temples and pickers; picking bands; picking sticks; printing machines; roller cloth; clearer cloth; sizing flannel; and roller skins.

18C PRINTING AND LITHOGRAPHIC MATERIAL, namely: presses, aluminium lithographic plates, composing sticks, chases, imposing tables, lithographic stones, stereo-blocks, wood blocks, half-tone blocks, electrotpe blocks, roller moulds, roller frames and stocks, roller composition, standing screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead and rule cutters, type casting machines, type setting and casting machines, rule bending machines, rule mitreing machines, bronzing machines, stereotyping apparatus, paper folding machines, and paging machines, but excluding ink and paper.

18D COMPONENT PARTS OF MACHINERY, as defined in Nos. 18A, 18B and 18C, namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose :

Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable."

9. After Item No. 24, the following items shall be inserted, namely :—

"24A | Ropes, cotton.

24B | Starch and farina.

10. After Item No 43, under the heading "YARNS AND TEXTILE FABRICS", the following item shall be inserted, namely :—

"43A | Artificial silk yarn and thread | *Ad-valorem* |  $7\frac{1}{2}$  per cent."

11. In Part III of the Schedule, the heading "MACHINERY", and Item Nos 51, 51A and 51B shall be omitted

11A. For Item No. 54 the following shall be substituted, namely :—

54 | The following printing material, namely, type, leads, brass rules, wooden and metal quoins, shooting sticks and galleys and metal furniture.

12. For the second proviso to Item No. 63, the following shall be substituted, namely :—

"Provided also that articles of machinery as defined in No. 18A or No. 18D shall not be deemed to be included hereunder.

13. In the proviso to Item No. 64, for the figures and letter "51" and "51A" the figures and letters "18A" and "18D" shall be substituted, respectively.

14. In Item No. 68, after the word "FLOUR", the words "except sago flour" shall be inserted.

15. For Item No. 77, the following shall be substituted, namely :—

"77 | All sorts of stearine, wax, grease and animal fat not otherwise specified."

16. In Item No. 92, after the word "sorts" where it occurs for the first time, the words "not otherwise specified" shall be inserted.

17. In Item No. 96, the brackets, words and figures "(see Nos. 15, 16, 18 and 51B)" shall be omitted.

18. In Item No. 103, for the figures "51" the figures and letter "18A" shall be substituted.

19. In Item No. 106, after the word "FIBRE" the words "not otherwise specified" shall be inserted.

20. In Item No. 111, for the figures "51" the figures and letter "18A" shall be substituted

21. Item No. 117 shall be omitted.

22. In Item No. 149A, the words, figures and letter "see Nos. 51 and 51A" shall be omitted.

23. In Item No. 153, for the figures and letter "51, 51-A" the figures and letters "18A, 18D" shall be substituted.

## ACT NO. XXV OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 22nd September, 1927.)

### An Act further to amend the Indian Penal Code and the Code of Criminal Procedure 1898, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Penal Code\* and the Code of Criminal Procedure, 1898,† for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Criminal Law (Amendment) Act, 1927.

**Notes.**—"The prevalence of malicious writings intended to insult the religion or outrage the religious feelings of various classes of His Majesty's subjects had made it necessary to examine the existing provisions of the law with a view to seeing whether they require to be strengthened. Chapter XV of the Indian Penal Code, which deals with offences relating to religion, provides no penalty in respect of writings of the kind described above. Such writings can usually be dealt with under section 153A of the Indian Penal Code as it is seldom that they do not represent an attempt to promote feelings of enmity and hatred between different classes. It must be recognized, however, that this is only an indirect way of dealing with acts which may properly be made punishable themselves, apart from the question whether they have the further effect of promoting feelings of enmity or hatred between classes. Accordingly it is proposed to insert a new section in Chapter IV of the Indian Penal Code, with the object of making it a specific offence intentionally to insult or attempt to insult the religion or outrage or attempt to outrage the religious feelings of any class of His Majesty's subjects. Certain amendments are also proposed in the Code of Criminal Procedure in pursuance of the object of the Bill."—*Statement of Objects and Reasons*. This Bill is the direct outcome of the decision of *Dalip Singh, J.*, in *Raj Paul v. Emperor*, A. I. R. 1927 (Lahore) 590, where that learned Judge observed : section 153A was intended to prevent persons from making attacks on particular community as it

\* XLV of 1860.

† V of 1898.

exists at the present time and was not meant to stop polemics against deceased religious leaders however scurrilous and in bad taste such attacks might be." But in a latter Allahabad case reported in A. I. R. 1927 (All.) 654 *Dalal, J.*, observed : "The learned Counsel who argued this revision showed me a copy of a judgment of an honourable Judge of the Lahore High Court (A. I. R. 1927 Lah. 590) on a similar book '*Rangila Rasul*, (a gay prophet) issued in the Punjab. Possibly the judgment was cited as both books appeared to have been issued in prosecution of the same Hindu propaganda. With all respect to the learned Judge, I am not prepared to agree with the nice distinction he has drawn between a book which may hurt the feelings of Mahomedans and a book which may cause feelings of enmity or hatred between different classes of His Majesty's subjects."

Insertion of new section  
295A in Act XLV of 1860

2. After section 295 of the Indian Penal Code, the following section shall be inserted, namely :—

"295A. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Deliberate and malicious acts intended to outrage religious feelings of any class, by insulting its religion or religious beliefs.

**Notes.**—"The proposed new section 295A is by far the most important provision contained in the Bill and we have examined it in the light of such criticisms as have been expressed since the Bill was introduced whether by the members of the Legislature or of the general public and we now proceed to set both our conclusions in detail. In the first place we are of opinion that the simple use of the word 'intentionally' does not sufficiently bring out what we consider is the essence of the offence, namely, that the insult to religion or the outrage to religious feelings must be the sole, or primary, or at least the deliberate and conscious intention. We have accordingly decided to adopt the phraseology of section 298 which requires deliberate intention in order to constitute the offence with which it deals.

"Secondly we think that to penalise even an intentional outrage or attempted outrage upon the religious feeling of any class would be casting the net too wide for the cases with particular reference to which the Bill has been introduced. At the same time, we realize that the reference to the outraging of religious feelings was inserted to provide for cases of an insult to the founder of a religion or a person held sacred by the followers of a particular religion where such an outrage does not amount to an insult to the religion. It has in one instance been held that an insult to the founder of a religion is not necessarily an insult to the religion although it may outrage the religious feelings of the followers of that religion. We have therefore provided that the new sections shall only apply in cases where a religion is insulted with the deliberate intention of outraging the religious feelings of its followers ; and, to make it clear that an attack on a founder is not omitted from the scope of the section, we have specifically made punishable an insult to the "religious belief" of the followers of any religion.

"Further, we are impressed by an argument to the effect that an insult to a religion or to the religious beliefs of the followers of a religion might be inflicted in good faith by a writer with the object of facilitating some measure of social reform by administering such a shock to the followers of the religion as would ensure notice being taken of any criticisms so made. We have therefore amplified the words "with deliberate intention" by inserting reference to malice, and we think that the section which we have now evolved will be both comprehensive and at the same time of not too wide an application."—*Report of the Select Committee.*

**Deliberate and malicious intention.**—"The words 'with deliberate and malicious intention' indeed provide a fair amount of protection to a person accused under this section, as burden of proof is thereby put on the prosecution in this respect."—*Minute of Dissent by N. C. Kelkar.*

Amendment of Act V of 1898. 3. In the Code of Criminal Procedure, 1898,\* the following amendments shall be made, namely :—

- (i) in sub-section (1) of section 99A, after the words " His Majesty's subjects" the words " or which is deliberately and maliciously intended to outrage the religious feelings of any such class by insulting the religion or the religious belief of that class" shall be inserted, and after the figures and letter " 153A" the words, figures and letter " or section 295 A " shall be inserted ;
- (ii) in section 196, after the word, figures and letter " section 294 A" the words, figures and letter " or section 295A" shall be inserted ;
- (iii) in the Second Schedule, after the entry relating to section 295 of the Indian Penal Code,† the following entry shall be inserted namely :—

" 295 A	Maliciously insulting the religion or the religious beliefs of any class.	Shall not arrest without warrant.	Warrant	Not bail-able.	Not com-pound-able.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Presidency Magistrate "
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- (iv) in the same Schedule, for the entries in the third, fourth, fifth, sixth and eighth columns relating to section 296 of the Indian Penal Code,† the following entries shall be substituted, respectively, namely :—

"May arrest without warrant."	Summons.	Bailable.	Not compoundable.	Presidency Magistrate or Magistrate of the first or second class."
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**Notes.**—" The amendments which we have made in sub-clause (i) of this clause are consequential upon those which we have made in clause (2). As regards sub-clause (ii), we are of opinion that a provision requiring the sanction of Government to the institution of a prosecution under this section is necessary in order to avoid factitious or vindictive proceedings which would not be likely to result in a conviction. In sub-clause (iii) we have provided that cases under the new section shall be triable exclusively by Courts of Session, or in Presidency towns, by Presidency Magistrates. By so doing, we avoid the possibility of a trial followed by an appeal to the Court of Session and an application for revision by the High Court. At the same time, we think that the Court of Session should have direct cognizance of cases many of which are likely to raise difficult points of law or of fact and law combined. We desire to observe that by reference to a Court of Session we mean a Court of Session sitting with assessors. We have also made the offence bailable."—*Report of the Select Committee.*

\* V of 1898.

† XLV of 1860.

## ACT NO. XXVI OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 22nd September, 1927)

### An Act further to amend the Cantonments Act, 1924, for certain purposes.

WHEREAS it is expedient further to amend the Cantonments Act, 1924, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Cantonments (Amendment) Act, 1927.

**2** In sub-section (1) of section 4 of the Cantonments Act, 1924\* (hereinafter referred to as the said Act), the word "immediate" shall be omitted.  
Amendment of section 4, Act II of 1924.

**Notes.**—According to the strict construction the expression "immediate vicinity" might be held to connote actual contiguity. The omission of the word "immediate" is necessary in order to allow of the inclusion in a cantonment of areas which are not actually contiguous but which lie in close proximity. This follows the wording of section 3, and it is doubtful whether it was ever intended to make a distinction of the kind implied between the two sections.—*Statement of Objects and Reasons.* The word used in section 3 is "vicinity" and not "immediate vicinity."

Amendment of section 20, Act II of 1924. **3.** To sub-section (1) of section 20 of the said Act the following proviso shall be added, namely :—

"Provided that when a military officer holding the office of President ceases to be the Officer Commanding the Station merely by reason of a temporary absence from the station on duty or on station leave, or during the transfer of his headquarters to a hill station, he shall not vacate the office of President."

**Notes.**—"The Cantonments Act, as it now stands, contains a contradiction. While section 23 makes it the duty and privilege of Vice-Presidents to preside at meetings of the Cantonment Board from which the President is absent, section 2 (ix), read with section 20 (1), had the indirect effect that the President, for all practical purposes, can never be absent. It often happens that the office of President is held by a succession of different Commanding Officers within a comparatively short period. For instance, during the temporary absence of one officer from the Station on military duty or Station leave or during the transfer of his head quarters to a Hill Station for the hot weather his place is taken by another officer. The effect of the amendment will be to allow the same officer to continue to hold office as President for a reasonable length of time and to retain his position together with its responsibilities, thus ensuring continuity of administration. At the same time, it will make it possible for the Vice-Presidents to preside at meetings of the Board from which the President is absent."—*Statement of Objects and Reasons.*

Amendment of section 34, Act II of 1924. **4.** For sub-section (1) of section 34 of the said Act, the following shall be substituted, namely :—

"(1) The Local Government may remove from a Board any member thereof who—

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\* II of 1924.

- (a) becomes subject to any of the disqualifications specified in sub-section (2) of section 27, or in sub-section (2) of section 28 ; or
- (b) has absented himself for more than three consecutive months from the meetings of the Board and is unable to explain such absence to the satisfaction of the Board ; or
- (c) has knowingly contravened the provisions of section 32 ; or
- (d) being a legal practitioner, acts or appears on behalf of any other person against the Board in any legal proceeding or against the Secretary of State in Council in any such proceeding relating to any matter in which the Board is or has been concerned, or acts or appears on behalf of any person in any criminal proceeding instituted by or on behalf of the Board against such person."

**Notes.**—"In the Punjab Municipal Act, 1911, provision exists for the removal of an elected member of a Municipal Committee, if he has since his election, become subject to any disqualification which, if it had existed at the time of his election, would have rendered him ineligible under any rule for the time being in force regulating the qualifications of candidates for election or if it appears that he was at the time of his election subject to any such disqualification. To secure uniformity of practice it is proposed to make a similar provision in the Cantonments Act, 1924, in regard to elected members of Cantonment Boards. Section 34 has been recast accordingly and section 35 in conformity therewith"—*Statement of Objects and Reasons*. Though the Local Government has power to remove a member, yet it can not pass any orders without giving an opportunity of explanation to the member concerned. Vide (1910) M. W. N. 271 = 7 Mad L. T. 245 ; but see 46 M. L. J. 60. If a member is wrongfully removed he can sue the Secretary of State and the onus lies upon the defendant to show that he was rightly removed. 7 M. 466 (F. B.)

Substitution of new section for section 35, Act II of 1924. **5.** For section 35 of the said Act, the following section shall be substituted, namely :—

- "35. (1) A member removed under clause (b) of sub-section (1) of section 34 shall if otherwise qualified be eligible for re-election or re-nomination.
- (2) A member removed under clause (c) or clause (d) of sub-section (1) of section 34 shall not be eligible for re-election or nomination for the period during which, but for such removal, he would have continued in office.
- (3) A member removed under sub-section (2) of section 34 shall not be eligible for re-election or nomination until the expiry of three years from the date of his removal."

Amendment of section 60, Act II of 1924.

**6.** To section 60 of the said Act the following proviso shall be added, namely :—

"Provided that, where the previous sanction of the Governor General in Council is required to the imposition of any tax in a municipality, such sanction shall also be required to its imposition in a cantonment."

**Notes.**—"Under section 15 of the repealed Cantonments Act, 1910, the previous sanction of the Governor General in Council was necessary to the imposition of any tax in a Cantonment by a Local Government. As a measure of decentralization, it was decided that the power to impose taxes in Cantonments should be delegated unconditionally to Local Governments. The clause requiring the previous sanction of the Governor General in Council was accordingly omitted from section 60 of the Cantonments Act, 1924. The result has been to confer on Local Governments greater powers with respect to taxation in Cantonments than they possess, under the Scheduled Taxes Rules, over taxation in Municipalities. To remove this anomaly and secure

uniformity of practice, it is proposed to insert a proviso requiring the previous sanction of the Governor General in Council when a Local Government imposes taxes in a Cantonment which it could not impose in a Municipality without such sanction."—*Statement of Objects and Reasons.*

Amendment of section 65,  
Act II of 1924.

7. In sub-section (1) of section 65, after the word "tax" where it appears for the second time, the word "assessed" shall be inserted.

**Notes.**—"As a matter of equity, it is considered that the taxes in respect of buildings in Hill Cantonments referred to in clause (pp) of sub-section (2) of section 280 should be held to include any tax assessed on the annual value of holdings, whether such a tax is a tax on property, such as house-tax, or a tax for services rendered, such as conservancy or water-tax. It is also considered that the same interpretation should be placed on the "tax" referred to in sections 65, 66, 75, 76 and 77. As these sections stand, the word "tax" could be interpreted to mean the ordinary house-tax only, but it is clear that they are intended to regulate taxation levied on all buildings whatever may be the object of the tax. The amendments are made with the object of making the intention clear and bringing sections 65, 66, 75, 76 and 77 and 280 (2) (pp.) into line with each other."—*Statement of Objects and Reasons.*

Amendment of section 66,  
Act II of 1924.

8. In section 66, after the word "tax", the word "assessed" shall be inserted.

**Notes.**—Vide Notes under section 7 *supra*.

Amendment of section 75,  
Act II of 1924.

9. In section 75 of the said Act, for the words "the tax payable thereon" the words "any tax assessed on the annual value thereof" shall be substituted.

**Notes.**—Vide Notes under section 7 *supra*.

Amendment of section 76,  
Act II of 1924.

10. In section 76 of the said Act, for the words "the tax payable thereon" the words "any tax assessed on the annual value thereof and payable" shall be substituted.

**Notes.**—Vide notes under section 7 *supra*.

Amendment of section 77,  
Act II of 1924.

11. In section 77 of the said Act,—

(a) for the words "the tax payable in respect of that year on the whole building", the words "any tax assessed on the annual value of the whole building and payable in respect of that year" shall be substituted; and

(b, in the proviso, for the words "Provided that no such remission" the words "No remission or refund under section 75, section 76, or section 77" shall be substituted, and

the proviso, as so amended shall be numbered as section 77A.

**Notes.**—"As it stands, there is no doubt that the proviso to section 77 applies to that section only and not to section 76. Its appearance as a new section 77 A is intended to make it clear that the provisions thereof are equally applicable to sections 75, 76 and 77."—*Statement of Objects and Reasons.*

Amendment of section  
107, Act II of 1924.

12. For sub-section (3) of section 107 of the said Act, the following shall be substituted, namely:—

"(3) A Cantonment Authority may, from time to time, with the previous sanction of the Local Government invest any portion of its cantonment fund in securities of the Government of India or in such other securities, including fixed deposits in banks as the Local Government may approve in this behalf, and may dispose of such investments or vary them for others of a like nature."



**Notes.**—"Under section 21 of the repealed Cantonments Act, 1910, the cantonment fund was vested in His Majesty, and its management was entrusted to the Cantonment Authority subject, *inter alia*, to the control of the Local Government. With the introduction of the Cantonments Act, 1924, the position has altered inasmuch as there is no provision corresponding to section 21 of the Act of 1910, and the cantonment fund is now vested in, and managed by, the Cantonment Authority. Cantonment funds, like municipal funds, no longer form part of the Government balances, and there is no reason why Cantonment Authorities should not be allowed to place cantonment funds on fixed deposit with approved indigenous banks if they desire to do so in preference to the Imperial Bank, provided that the previous sanction of the Local Government is obtained in every case."—*Statement of Objects and Reasons.*

**13.** In clause (hh) of sub-section (2) of section 280 of the said Act, for the words "of taxes may be made in respect" the words "may be made of taxes assessed on the annual value" shall be substituted.

Amendment of section 280, Act II of 1924

**Notes.**—Vide notes under section 7.

## ACT NO. XXVII OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 22nd September, 1927.)

### An Act to amend the Indian Emigration Act, 1922, for a certain purpose.

**WHEREAS** it is expedient to amend the Indian Emigration Act, 1922,\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

**1.** This Act may be called the Indian Emigration (Amendment) Act, 1927.

Short title.

**Notes.**—Article 11 of the draft convention concerning the simplification of the inspection of emigrants adopted by the International Labour Conference at its Eighth Session, Geneva, requires each member of the International Labour Organisation notifying the convention to give effect to the provisions of Articles 1, 2, 3, 4, 5, 6 and 7, not later than the 1st January, 1928. The Government of India having decided, with the concurrence of the Indian Legislature, to notify the convention, it is necessary to amend the Indian Emigration Act, 1922 (VII of 1922) so as—

(a) to define an "emigrant ship" as required by Article 1 of the convention (the term "emigrant" is already defined in section 2 (1) (b) of the Act) ; and

(b) to empower the Governor General in Council to give effect to the provisions of other articles of the convention and to the recommendation.—*Statement of Objects and Reasons.*

**2.** After clause (c) of sub section (1) of section 2 of the Indian Emigration Act, 1922,\* (hereinafter referred to as the said Act), the following clause shall be inserted, namely :—

Insertion of new clause in section 2, Act VII of 1922.

"(c) 'emigrant ship' means any ship specially chartered for the conveyance of emigrants, or conveying emigrants exceeding a number to be prescribed :

Provided that the Governor General in Council may, by notification in the Gazette of India, declare that ships conveying emigrants to any specified port shall not be deemed to be emigrant ships ;".

**3.** (1) In clause (k) of sub-section (2) of section 24 of the said Act, for the words "any ship specially chartered for the transport of emigrants" the word "emigrant ship" shall be substituted.

Amendment of section 24,  
Act VII of 1922.

(2) In clause (k) of the said sub-section, for the words "both up to the date of their actual departure from India," the words "up to the date of their departure from India, during a voyage on an emigrant ship," shall be substituted

**Notes.**—Sections 2 and 3 (2), respectively, of the draft Bill purport to effect the necessary amendments in view of the reasons stated in notes under section 1. Sub-section (2) of section 3 carries out an amendment consequential to the amendment proposed in section 2.—*Statement of Objects and Reasons.*

## ACT NO. XXVIII OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 22nd September, 1927.)

### An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922,\* for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

**1.** This Act may be called the Indian Income-tax (Amendment) Act, 1927.

**2.** (1) In section 59 of the Indian Income-tax Act, 1922,\* after sub-section (2), the following sub-section shall be inserted, namely :—

Amendment of section 59,  
Act XI of 1922.

"(3) In cases coming under clause (a) of sub-section (2), where the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub-section may—

(a) prescribe methods by which an estimate of such income, profits and gains may be made, and

(b) in cases coming under sub-clause (i) of clause (a) of sub-section (2), prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act."

(2) Sub-sections (3) and (4) of the same section shall be re-numbered as sub-sections (4) and (5), respectively.

**Notes.**—"This is a formal Bill intended to remove a slight defect in the drafting of the Act which has come to light in connection with the question of assessment of Tea Companies. The clause proposed to be inserted sets out in clearer terms than at present what has always been the intention of section 59 (2) (d), and what has also been the basis of the various rules framed by the Central Board of Revenue in virtue of the powers conferred by that section."—*Statement of Objects and Reasons.*

## ACT NO XXIX OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(*Received the assent of the Governor General on the 23rd September, 1927.*)

**An Act further to amend the Aden Civil and Criminal Justice Act, 1864, in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay**

WHEREAS it is expedient further to amend the Aden Civil and Criminal Justice Act, 1864,\* in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay; It is hereby enacted as follows:—

1. This Act may be called the Aden Civil and Criminal Justice (High Court Jurisdiction Amendment) Act, 1927.

2. In the first paragraph of section 8 of the Aden Civil and Criminal Justice Act, 1864\* (hereinafter referred to as the said Act), after the word "suit," where it occurs for the first time, the words "or the hearing of an appeal in any suit" shall be inserted

Insertion of new section 22 B in Act II of 1864.

3. After section 22 A of the said Act. the following section shall be inserted, namely:—

"22B, An appeal shall lie to the High Court of Bombay against the judgment or order of the Resident or of an Additional Sessions Judge, where such an appeal is allowed by the Code of Criminal Procedure, 1898†:

Provided that there shall be no appeal by a convicted person against a sentence of imprisonment not exceeding six months only, or of fine not exceeding five hundred rupees only."

Substitution of new section for section 29, Act II of 1864.

4. For section 29 of the said Act the following section shall be substituted, namely:—

"29 (1) No appeal shall lie from a judgment or order of a Criminal Court except as provided in this Act.

(2) An appeal against an acquittal may be made as provided in the Code of Criminal Procedure, 1898.†

(3) It shall be at the discretion of the Resident to reserve, for the opinion of the High Court, any point of law arising in the course of any criminal proceedings whatever pending before him"

**Notes.**—"The object of the Bill is to supplement the Aden Civil and Criminal Justice (Amendment) Act, 1927, which has been enacted by the Bombay Legislature to amend the Aden Civil and Criminal Justice Act of 1864. It is now necessary further to amend the latter Act by providing therein for appeals in certain cases to lie to the High Court of Bombay. Such further amendment which was *ultra vires* of the Bombay Legislature, is nevertheless a necessary complement to the former Act, which has been passed by them in contemplation of the legislation now proposed."

*Statement of Objects and Reasons.*

## ACT NO. XXX OF 1927.

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor General on the 23rd September, 1927.)

### An Act further to amend the Indian Divorce Act for a certain purpose.

WHEREAS it is expedient further to amend the Indian Divorce Act\* for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Divorce (Second Amendment) Act, 1927

2. In the second paragraph of section 2 of the Indian Divorce Act,\* after Amendment of section 2, the words 'petitioner' where it first appears, the word 'or respondent' shall be inserted

Notes.—"Under the Indian Divorce Act (IV of 1869) no relief is provided except in cases in which the petitioner professes the Christian religion. As a valid marriage can be contracted by a Christian with a non-Christian under the Indian Christian Marriage Act, 1872 (XV of 1872), relief is at present possible only to Christian party to such a marriage. The Bill proposes to amend Act IV of 1869 so as to allow a non Christian party also to apply for relief."—*Statement of Objects and Reasons.*

## ACT NO. XXXI OF 1927.

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor General on the 23rd September, 1927.)

### An Act further to amend the Assam Labour and Emigration Act, 1901, for certain purposes.

WHEREAS it is expedient further to amend the Assam Labour and Emigration Act, 1901,† for certain purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Assam Labour and Emigration (Amendment) Act, 1927.

2. For sub-section (2) of section 116E of the Assam Labour and Emigration Act, 1901† (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely:—

"(2) such cess shall be payable on every person deputed by an employer to engage or assist persons to emigrate and on every person assisted to emigrate to a labour district;  
Provided that the rates at which the cess is levied shall not exceed the following rates, namely:—

Five rupees a year on each person so deputed; and  
Five rupees on each person assisted to emigrate."

\* IV of 1869.

† VI of 1901.

3. Where any sum has been paid as cess under section 116E of the said Act before the commencement of this Act, notwithstanding that it was not so payable, and such sum would have been payable if this Act had been in force at the time of the payment, such sum shall be deemed to have been legally due as cess, and no claim shall lie in any Court for its refund.

Validation of recoveries prior to commencement of this Act.

**Notes.**—"The expenditure of the Assam Labour Board, which is responsible for supervising assisted Emigration to Assam, is met almost entirely from a cess on employers in Assam levied under section 116 E. of the Assam Labour and Emigration Act 1901. The existing sub-section (2) of that section reads as follows:—

"Such cess shall be payable on every garden sardar deputed by his employer to engage labourers and on every person recruited or engaged as a labourer or assisted to emigrate under Chapter IV or section 91."

Provided that the rates at which the cess is levied shall not exceed the following, namely —

Five rupees a year on each garden sardar so deputed, and

Five rupees on each person so recruited, engaged, or assisted to emigrate."

A "labourer" is defined in the Act as meaning any person bound by a labour contract, but, owing to the withdrawal by executive notification of certain provisions of the Act, no person working in Assam are now bound by labour contracts. In consequence of this change, it is no longer possible to levy a cess upon garden sardars although the recruitment of labour is still conducted by their agency. The Bill is intended to make it possible to levy a cess on garden sardars and on assisted emigrants as heretofore and to validate the collection of the cesses already paid or imposed."—*Statement of Objects and Reasons.*

END.













